

**CONSULTATION  
PAPER**

## **CONSULTATION PAPER**

on the proposal for Guidelines to specify further  
the matters and criteria for the assessment of  
the resolvability of undertakings or groups

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European Insurance and  
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## RESPONDING TO THIS PAPER

EIOPA welcomes comments on the Consultation Paper on the proposal for Guidelines to specify further the matters and criteria for the assessment of the resolvability of undertakings or groups.

Comments are most helpful if they:

- ▶ respond to the question stated, where applicable;
- ▶ contain a clear rationale; and
- ▶ describe any alternatives EIOPA should consider.

Please send your comments to EIOPA via EU Survey ([link](#)) by 31 July 2025, 23:59 CET.

Contributions not provided via EU Survey or after the deadline will not be processed. In case you have any questions please contact [IRRD\\_PC@eiopa.europa.eu](mailto:IRRD_PC@eiopa.europa.eu).

### Publication of responses

Your responses will be published on the EIOPA website unless: you request to treat them confidential, or they are unlawful, or they would infringe the rights of any third-party. Please, indicate clearly and prominently in your submission any part you do not wish to be publicly disclosed. EIOPA may also publish a summary of the survey input received on its website.

Please note that EIOPA is subject to Regulation (EC) No 1049/2001 regarding public access to documents and EIOPA's rules on public access to documents.<sup>1</sup>

### Declaration by the contributor

By sending your contribution to EIOPA you consent to publication of all non-confidential information in your contribution, in whole/in part – as indicated in your responses, including to the publication of the name of your organisation, and you thereby declare that nothing within your response is unlawful or would infringe the rights of any third party in a manner that would prevent the publication.

### Data protection

Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published. EIOPA, as a European Authority, will process any personal data in line with Regulation (EU) 2018/1725. More information on how personal data are treated can be found in the privacy statement at the end of this material.

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<sup>1</sup> [Public Access to Documents](#)

## CONSULTATION PAPER OVERVIEW AND NEXT STEPS

EIOPA carries out consultations in the case of Guidelines and Recommendations in accordance to Article 16 (2) of the EIOPA Regulation.

This Consultation Paper presents the draft Guidelines, explanatory text and a technical annex where relevant.

The analysis of the expected impact from the proposed policy is covered under Annex I (Impact Assessment).

### Next steps

EIOPA will revise the proposal in view of the stakeholder comments received. EIOPA will publish a report on the consultation including the revised proposal and the resolution of stakeholder comments.

# 1. GUIDELINES

## INTRODUCTION

- 1.1 In accordance with Article 16 of Regulation (EU) 1094/2010 of the European Parliament and of the Council of 24 November establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (EIOPA Regulation)<sup>2</sup> and with Article 13(5) of Directive (EU) 2025/1 of the European Parliament and of the Council of 27 November 2024 establishing a framework for the recovery and resolution of insurance and reinsurance undertakings and amending Directives 2002/47/EC, 2004/25/EC, 2007/36/EC, 2014/59/EU and (EU) 2017/1132 and Regulations (EU) No 1094/2010, (EU) No 648/2012, (EU) No 806/2014 and (EU) 2017/1129(IRRDR), EIOPA issues these Guidelines to specify further the matters and criteria for the assessment of the resolvability of insurance and reinsurance undertakings or groups.
- 1.2 These Guidelines are addressed to resolution authorities as defined in Article 2(12) of Directive (EU) 2025/1.
- 1.3 If not defined in these Guidelines, the terms have the meaning defined in the legal acts referred to in the introduction.
- 1.4 For the purposes of these Guidelines, the following definitions have been developed:
- a) ‘resolution strategy’ means a set of actions, including at least the application of one or more resolution tools or the exercise of one or more resolution powers, provided for in a resolution plan.
  - b) ‘preferred resolution strategy’ means a resolution strategy or a group resolution strategy that is presumed to be best in achieving the resolution objectives set out in Article 18 of Directive (EU) 2025/1 under a specific resolution scenario, considering the structure and the business model of the insurance or reinsurance undertaking or group, and the resolution regimes applicable to legal entities in a group;
  - c) ‘alternative resolution strategy’ means a resolution strategy or a group resolution strategy that is intended to be implemented in a specific scenario when it is not credible or feasible to implement the preferred resolution strategy or strategies identified in the resolution plan or group resolution plan for that scenario. It is considered to address circumstances in which the preferred resolution strategy or strategies cannot be implemented;
  - d) ‘group resolution strategy’ means a set of actions, including at least the application of one or more resolution tools or the exercise of one or more resolution powers, provided for in a group resolution plan to be implemented by the group-level resolution authority and resolution authorities of subsidiaries to execute in a coordinated manner the resolution of the group;
  - e) ‘operational continuity’ means the ability to effectively implement the resolution strategy from an operational perspective, which requires insurance or reinsurance

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<sup>2</sup> Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC, OJ L 331, 15.12.2010, p. 48-83.

undertaking to have in place appropriate arrangements to ensure the continued provision of relevant services;

f) 'relevant services' means:

(i) services, including reinsurance services, necessary for the continuity of a critical function or a core business line, if (i) their disruption has material impact on the insurance and reinsurance undertaking's or group's ability to continue to provide critical functions or core business lines and (ii) they cannot be provided by another provider within a reasonable timeframe to a comparable extent as regards object, quality and cost, or

(ii) any other services needed to ensure undisturbed functioning of the insurance or reinsurance undertaking or group during resolution, including those provided by essential service providers;

g) 'transfer perimeter' means the scope of activities of the insurance or reinsurance undertaking and related assets, liabilities, technical provisions as well as other resources and items that create a comprehensive portfolio to be potentially transferred as part of the resolution strategy.

### **Guideline 1 – General principles for the assessment of resolvability**

1.5 To improve resolvability and facilitate the implementation of the resolution strategy or strategies, resolution authorities should assess the insurance or reinsurance undertakings' resolvability through ongoing cooperation and dialogue with the insurance or reinsurance undertakings or groups.

1.6 Where an insurance or reinsurance undertaking or a group is subject to resolution planning, the resolution authority should identify a preferred resolution strategy or strategies on the basis of the criteria set out in these Guidelines. It should also identify alternative strategies for cases where the resolution authority considers it is difficult to implement the preferred resolution strategy or strategies.

1.7 The resolution authority should assess the feasibility and credibility of at least the preferred resolution strategy or strategies. Feasibility refers to the likelihood of an effective implementation of the preferred resolution strategy, as assessed in context of the resolvability dimensions (1-8) listed in the Annex to Directive (EU) 2025/1. Credibility refers to the potential impact of the implementation of the preferred resolution strategy on the financial system and real economy, as assessed in the context of resolvability dimension 9 listed in the Annex to Directive (EU) 2025/1. The resolution authority may also conduct the assessment of resolvability for any alternative resolution strategy.

1.8 If resolution authorities and group-level resolution authorities decide to also perform a resolvability assessment of an alternative resolution strategy, they should decide to what extent all the resolvability dimensions (listed in Guidelines 5-13) that are part of the assessment of the preferred resolution strategy need to be considered.

1.9 The resolution authority should appropriately take into account reinsurance aspects when assessing the resolvability of an insurance undertaking or group. The following aspects should be considered when performing the assessment:

a) the reinsurance strategy and its potential impact on the preferred resolution strategy, including its overall structure, and its impact on the business model and risk management system in potential resolution;

- b) the reinsurance strategy of the insurance undertaking or group and its impact on the preferred resolution strategy or strategies;
- c) legal and economic aspects of the reinsurance contracts in place (contract conditions, parametrization, specific clauses, exit and/or renewal agreements, intragroup arrangements);
- d) risks related to the activities and exposures stemming from the reinsurance contracts in place and its impact on the preferred resolution strategy or strategies;
- e) the overall governance of reinsurance activities within the insurance undertaking or group (tools, processes, roles and responsibilities, reporting) and its impact on the preferred resolution strategy or strategies;
- f) risks related to intragroup reinsurance and similar arrangements, including the existence and use of dedicated special purpose vehicles and their potential impact on the resolvability of the insurance undertaking or group.

## **Guideline 2 – Assessment of the credibility and feasibility of winding-up under normal insolvency proceedings**

- 1.10 Resolution authorities should assess the feasibility and credibility of winding-up of the insurance or reinsurance undertaking or group under normal insolvency proceedings, including the potential need to use extraordinary public financial support, considering the tools and powers available under the provisions of the respective national insolvency framework. The outcome of this assessment is one of the elements of the public interest assessment, which is conducted at various stages in the resolution planning and execution framework. In that regard, it should be noted that only in cases where the resolution authority concludes that winding-up under normal insolvency proceedings would not meet the resolution objectives of Article 18 of Directive (EU) 2025/1 to the same extent as resolution, the insurance or reinsurance undertakings or group should be taken into resolution, in accordance with the conditions for resolution as listed in Article 19 of Directive (EU) 2025/1.
- 1.11 When assessing the credibility of winding-up, resolution authorities should consider the likely impact of the winding-up of the insurance or reinsurance undertaking or group on the financial systems of any Member State or of the Union to ensure the continuity of critical functions provided by the insurance or reinsurance undertaking or group and achieving the other resolution objectives of Article 18 of IRRD. For this purpose, resolution authorities and group-level resolution authorities should take into account the functions performed by the insurance or reinsurance undertaking or group and assess whether winding-up would be likely to have a material adverse impact on any of the following:
- a) policyholders, beneficiaries and other stakeholders and their social welfare;
  - b) insurance coverage and protection provided by the insurance policies in place;<sup>3</sup>
  - c) functioning of financial markets and market confidence;
  - d) other financial institutions, in particular:
    - i. whether winding-up would raise the funding costs of or reduce the availability of funding to other financial institutions in a manner which presents a risk to financial stability;
    - ii. the risk of direct and indirect contagion and macroeconomic feedback effects;
  - e) the real economy and in particular the availability of critical functions.

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<sup>3</sup> The existence and availability of an IGS should also be taken into account in this regard, as it could mitigate any material adverse impact on the insurance coverage and protection provided by the insurance policies. Nevertheless, the continuation of coverage might not necessarily be guaranteed by an IGS.

- 1.12 When assessing the feasibility of winding-up, resolution authorities should consider whether the insurance or reinsurance undertaking's or group's systems are able to provide the information relevant to the insurance guarantee schemes (in case one exists) for the purposes of providing payment to covered risks in the amounts and time frames specified in the relevant national legislation. Where relevant, resolution authorities and group-level resolution authorities should consider whether the insurance or reinsurance undertaking's or group's systems are able to provide the information for the third country insurance guarantee schemes.
- 1.13 Resolution authorities and group-level resolution authorities should also assess whether the insurance or reinsurance undertaking or group has the capability required to support the insurance guarantee schemes' operations (in case one exists), in particular by distinguishing between covered and non-covered risks and claims.
- 1.14 When assessing the feasibility of winding-up, resolution authorities and group-level resolution authorities should consider whether the insurance or reinsurance undertaking or group has made appropriate organizational arrangements to provide the administrator with the necessary information to settle creditors and close the winding-up process.

### Guideline 3 – Identification of a preferred resolution strategy

- 1.15 When assessing whether a resolution strategy is appropriate to achieve the resolution objective or resolution objectives, resolution authorities and group-level resolution authorities should take into account the size, business model, risk profile, interconnectedness, substitutability and in particular the cross-border activity of the insurance or reinsurance undertaking or group, and the resolution regimes applicable to the legal entities in a group.
- 1.16 When selecting the preferred resolution strategy resolution authorities and group-level resolution authorities should preliminary consider at least the following:
- a) what resolution tools or resolution powers would be used under the preferred resolution strategy and whether those resolution tools or resolution powers are feasible to be implemented for legal entities to which it is proposed in the resolution strategy;
  - b) the likely availability of a transferee or purchaser for any business activities of the insurance or reinsurance undertaking in resolution, taking into consideration the ability to use a bridge undertaking to operate the business on a temporary basis;
  - c) the amount of eligible liabilities under the resolution strategy and the risk that these liabilities cannot be used to absorb losses or recapitalize the insurance or reinsurance undertaking or group;
  - d) the amount and characteristics of the insurance liabilities, their potential to contribute to the loss absorption or recapitalization capacity and the potential impact of the contribution to the loss absorption or recapitalization capacity on the insurance or reinsurance undertaking's creditors and policyholders, beneficiaries and injured parties;
  - e) the existence of an insurance guarantee scheme or other financing arrangements;
  - f) the operational structure and business model of the insurance or reinsurance undertaking or group, and in particular whether it is highly integrated or interconnected with other entities (not only from the group) or has a decentralised structure with a high degree of separation between different parts of the insurance or reinsurance undertaking or group;



- g) the enforceability of resolution tools which would be applied, in particular in third countries;
- h) whether the resolution strategy requires supporting action by other authorities, in particular in third countries, or requires such authorities to refrain from independent resolution actions; and whether any such actions are feasible and credible for those authorities.

1.17 Considering the different consecutive stages of the resolvability assessment in accordance with Article 13(2) of Directive (EU) 2025/1, when setting out the resolution strategy, the resolution authority should firstly take into account the structure and business model and the different service delivery models used by a given insurance or reinsurance undertaking or group and how they interact. At least the following service delivery models should be listed: (i) outsourcing the provision of services to an external party (third-party provision of services), (ii) allocation of the provision of services to another entity within its group, or (iii) operation as a business unit within the entity itself that provides services to one or more of its business units (intra-entity or in-house provision of services).

#### **Guideline 4 – Assessment of the feasibility and credibility of a resolution strategy**

- 1.18 Resolution authorities and group-level resolution authorities are responsible for the monitoring and assessment of the insurance and reinsurance undertakings or groups from the perspective of resolvability requirements laid down in the following Guidelines. This monitoring and assessment should allow for the verification whether it is feasible and credible to apply the preferred resolution strategy effectively in an appropriate time frame and should identify potential impediments to the implementation of the preferred resolution strategy.
- 1.19 Resolution authorities and group-level resolution authorities should, as a minimum, examine the resolvability dimensions specified in the Annex of Directive (EU) 2025/1 (as described in Article 13(3) and Article 14(4) of Directive (EU) 2025/1).
- 1.20 Resolution authorities and group-level resolution authorities should consider requiring, in cooperation with insurance or reinsurance undertakings or groups that are subject to resolution planning requirements, the development of additional tools and introduce measures to improve the resolvability of the insurance or reinsurance undertaking, and operationally facilitate the implementation of the preferred resolution strategy or strategies or any alternative resolution strategy, in particular, to ensure the effective implementation of the resolution tools listed in Article 26 (3) of Directive (EU) 2025/1, including:
- a) a self-assessment report prepared by the insurance or reinsurance undertaking, with an evaluation of its own resolvability;
  - b) a multi-annual testing program prepared by the resolution authority to verify the degree of the insurance and reinsurance undertakings' resolvability (in particular with regard to the resolvability dimensions described in Guidelines 5-13);
  - c) handbook(s)<sup>4</sup>;
  - d) playbook(s)<sup>5</sup>.

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<sup>4</sup> Handbooks are drafted by the resolution authority to describe procedural issues specific to the use of certain resolution tools in order to ensure an effective application of those tools.

<sup>5</sup> Playbooks are operational documents owned by the undertakings with the aim of supporting the execution of the resolution strategy and the application of resolution tools selected by the resolution authority. The playbook is expected to address all internal and external actions that must be undertaken by or on behalf of the undertaking to ensure effective application of the resolution tool.

### Guideline 5 – Assessment of feasibility: operational continuity

- 1.21 When conducting the resolvability assessment in the area mentioned in point 1(a) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether:
- insurance or reinsurance undertakings, or groups, have developed capabilities to carry out a comprehensive identification of all relevant services, including reinsurance services, as well as relevant operational assets and staff roles, necessary for the continuity of critical functions and the core business lines;
  - undertakings or groups have mapped them to legal entities, where relevant, and critical functions, core business lines;
  - a mapping is integrated into the regular business processes of insurance or reinsurance undertakings (this means the mapping is updated in case of any changes or additions to the business affecting the critical functions, core business lines and relevant), and is comprehensive.
- 1.22 When conducting the resolvability assessment in the area mentioned in point 1(b) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- have in place adequate operational arrangements ensuring that all relevant services and the adopted service delivery model can continue during the implementation of the resolution strategy;
  - document the relevant contractual arrangements for all relevant services, and have clear parameters against which the performance of these services' provision can be monitored, so that it is possible to identify the risk that any service might not be provided in resolution; the list of details of such arrangements that should be documented should include at least:
    - names of relevant service providers and recipients,
    - the nature of the service,
    - its pricing structure (or an estimate of the cost for in-house services),
    - clear parameters (qualitative/quantitative),
    - any onward provision to other entities or sub-contracting to third-party providers,
    - associated licenses and substantive obligations under the contract (such as payment/delivery);
  - have in place adequate operational arrangements to ensure that the terms of relevant contracts and service level agreements (SLAs) on service provision, including third-party contracts governed by third-country or international laws (e.g. clauses, alternative measures), and pricing do not alter solely as a result of the entry into resolution of a party to the contract (or affiliate of a party);
  - have in place adequate operational arrangements to be able to report to resolution authorities and group-level resolution authorities on the receipt of relevant services, with information that is up-to-date and available at all times;
  - maintain comprehensive, searchable and up-to-date management information system ("MIS") and databases (service catalogues) containing the necessary information about relevant services, for the successful implementation of the tools envisaged in the resolution strategy, including information on ownership of assets and infrastructure, pricing, contractual rights and agreements, as well as outsourcing arrangements;
  - have in place a comprehensive and searchable repository of contracts servicing all relevant services, that is updated on a regular basis and is timely accessible;
  - have in place operational arrangements:

- to monitor and ensure the payment for providers of relevant services,
- to ensure that relevant services, are operationally resilient and have sufficient capacity, in terms of human resources and expertise, to support both the resolution and post-resolution restructuring (such as contingency plans, succession plans, retention plans). Regarding third-party service providers, they should be subject to proper due diligence;
- to ensure that access to operational assets would not be disrupted by the failure or resolution of any group entity;
- for managing and ensuring compliance with internal policies applicable to service level agreements;
- to ensure that business continuity planning and contingency arrangements for the providers of relevant services take into account resolution-related conditions and are appropriate to ensure that services continue to be provided in resolution, without needing to rely on staff from business lines that may no longer be part of the same undertaking or group as a result of resolution;
- to ensure that a swift and efficient decision-making process covers all elements affecting operational continuity, in particular the provision of relevant services.

Group-level resolution authorities should also verify whether groups are able to ensure that intra-group providers of relevant services have contingency arrangements to ensure that relevant services continue to be provided in resolution and that the provision of relevant services within the group is structured to avoid preferential treatment upon the failure or resolution of any group entity.

- 1.23 When conducting the resolvability assessment in the area mentioned in point 1(c) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups have developed capabilities to properly and comprehensively assess risks to operational continuity in resolution, such as the interruption of relevant services, loss of access to relevant operational assets and potential vacancy or unavailability of relevant staff. The risk analysis needs to take into account at least the adequacy of the:
- contractual provisions for relevant services taking into account the law applicable to the relevant contracts;
  - MIS, databases and repositories related to operational continuity;
  - arrangements ensuring sufficient financial resources allowing the continuity of the provision of relevant services during and after resolution;
  - arrangements allowing for access to relevant operational assets, taking into account the location and legal status (e.g. owned or leased) of the assets;
  - contingency arrangements for key staff, including instances where relevant staff are employed by a group legal entity that could be wound up or divested in resolution.
- 1.24 When conducting the resolvability assessment in the area mentioned in the point 1(d) of the Annex to IRRD, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings have developed capabilities to ensure that the risks to operational continuity in resolution, identified in line with the point above, are addressed, through appropriate mitigating actions and measures to improve preparedness for resolution and to facilitate post-resolution restructuring.

### **Guideline 6 – Assessment of feasibility: access to financial markets infrastructures (FMIs)**

- 1.25 When conducting the resolvability assessment in the area mentioned in point 2 of the Annex to IRRD, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- have identified all relationships (including related to any membership requirements) they have with FMIs and FMI intermediaries, including key systems and personnel required to maintain access to FMI services and arrangements to ensure they remain available or can credibly be replaced in resolution;
  - consider the actions, such as increased margin requirements or reductions in outstanding credit lines, that FMIs and FMI intermediaries would be likely to take, as well as in which circumstances and within which timeline (such as intraday or within a few days) these might be taken, and to what extent;
  - draw up and update a contingency plan describing how they will maintain access to relevant FMI service providers in stress situations, in the run-up to, during and after resolution for the full range of plausible actions that each relevant FMI service provider could take during resolution, and the insurance or reinsurance undertaking's or group's potential mitigating actions. This also includes anticipated collateral, liquidity, or information requirements and how the insurance or reinsurance undertaking or group would expect to meet them and the communication conditions with each FMI service provider to provide any additional information that may be required for access to be facilitated;
  - map the relationships with FMI service providers to: (a) critical functions; (b) core business lines; (c) relevant services; (f) legal entities;
  - assess the impact of the likely actions identified (increased requirements or degraded, suspended or terminated access to the FMI) on critical functions and core business lines.

### **Guideline 7 – Assessment of feasibility: separability**

- 1.26 When conducting the resolvability assessment in the area mentioned in point 3(a) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- conduct an initial separability analysis of critical functions and core business lines to identify sources of undue complexity in their structure and information systems, including at least the following areas:
    - a) a description of closely interrelated activities (as well as associated services) which could be separated from the rest of the group without undue delay and disproportionately high costs;
    - b) an assessment whether assets, liabilities, services, staff, and, where relevant, other supporting infrastructure, which are related to relevant services, and which are part of possible transfer perimeters could be transferred to third parties;
    - c) an assessment of whether assets and liabilities which are not related to relevant services, but earmarked for a possible transfer perimeter, can be transferred;
    - d) a description of the IT systems and license ownerships, people and other services that are necessary to support the transfer perimeter(s);
    - e) a description of operational efforts and of the expected time necessary for the delivery of information about the transfer perimeter relevant for the implementation of the preferred resolution strategy or strategies;
    - f) a description of the liquidity and funding needs for the transfer perimeter(s).
  - are capable of identifying potential impediments to resolution related to separability posing a risk for the implementation of the resolution action, e.g.:
    - a) the nature and extent of intra-group exposures and their impact on resolution;

- b) the time needed to evaluate policyholder liabilities and the assets supporting or backing those liabilities or to be otherwise transferred.
  - where relevant, provide explanations about actions taken to reduce or remove the sources of undue complexity in the structure and information systems.
- 1.27 When conducting the resolvability assessment in the area mentioned in point 3(b) of the Annex to IRRD, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- analyse the market capacity to absorb the transfer perimeter(s) (including the existence of third-party investors with sufficient funds, competition and strategic considerations, in case of insurance or reinsurance undertakings or groups with excess capital and/or sufficient market access, previous integration experience) and are able to identify any available opportunities to improve the transfer perimeter(s) (e.g. simplification of the transfer perimeter, possibilities to reduce execution risks, possible „carve outs“ of unwanted assets etc.);
  - consider the possibility of different potential acquirers for different parts of the transfer perimeter(s) according to the markets concerned, their absorption capacity or the geography of the activities, in order to maximise the chances of success of the transfer strategy and support the resolvability of the insurance or reinsurance undertaking or group.

#### **Guideline 8 – Assessment of feasibility: loss absorption and recapitalisation capacity**

- 1.28 When conducting the resolvability assessment in the area mentioned in point 4(a) of the Annex to IRRD, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- have sufficient loss absorption and, if applicable, recapitalisation capacity to comply with the conditions for authorisation and to regain market confidence post-resolution, allowing the continued performance of critical functions during and after resolution, including at subsidiary level;
  - ensure the appropriate amount and characteristics of the eligible liabilities to contribute to the loss absorption or recapitalization capacity, considering the potential impact on the insurance or reinsurance undertaking's creditors and policyholders, beneficiaries and injured parties as well as reinsurers;
  - ensure that their capital, liability and technical provisions' structures would permit a write-down or conversion, in particular by having in place an effective internal loss transfer and recapitalisation mechanism between subsidiaries and parent undertakings, where relevant, taking into account the nature of the holder of the instruments and the need for appropriate subordination;
  - identify any liabilities which are likely under the preferred resolution strategy not to contribute to loss absorption or recapitalisation, considering at least the following factors:
    - a) maturity;
    - b) subordination ranking;
    - c) the types of holders of the instrument, or the instrument's transferability;
    - d) legal impediments to loss absorbency such as a lack of recognition of resolution tools under foreign law or existence of set-off rights;
    - e) other factors creating risk that the liabilities would be exempted from absorbing losses in resolution;
    - f) the amount of qualifying eligible liabilities or other liabilities and an identification of the issuing legal entities which would absorb losses;

- g) whether appropriate arrangements are specified for losses to be transferred to legal entities to which resolution tools would be applied from other group companies, including where relevant an assessment of the amount and loss-absorbency of intragroup funding.
- 1.29 Resolution authorities and group-level resolution authorities should also consider the availability of any insurance guarantee schemes or financing arrangements that can contribute to the loss absorption or recapitalization of the insurance or reinsurance undertaking or group.
- 1.30 When conducting the resolvability assessment in the area mentioned in point 4(b) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- properly identify any barriers for the implementation of resolution actions in a cross-border context, especially identify any obstacles to the effective application of Articles 47-54 of Directive (EU) 2025/1;
  - provide a list of contracts, including financial contracts, concluded under third country law or law of another Member State, identifying the counterparty, the obligations for the insurance or reinsurance undertaking or group and whether the contracts include the contractual recognition of resolution tools and powers;
  - identify any barriers for the write-down or conversion of technical provisions in the cross-border context.
- 1.31 When conducting the resolvability assessment in the area mentioned in point 4(c) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- are capable of conducting the process implementing the write-down and conversion exchange mechanic, which is compliant with the applicable national regulatory framework.<sup>6</sup> This includes the ability to:
    - a) address the discontinuation, cancellation or suspension from the listing or trading of securities;
    - b) address the risk of non-settled transactions;
    - c) deal with the listing or relisting, and admission to trading of new securities or other claims;
    - d) enable the delivery of equity to written-down creditors;
    - e) account for a potential adjustment that may be required at a later stage once the full extent of the insurance or reinsurance undertaking's or group's losses is known, for instance, based on the outcome of the final valuation; and
    - f) allow for potential residual unclaimed equity to be claimed beyond the initial exchange period. New shareholders or new owners of the equity may not be immediately identified and contacted during the early stage of the write-down and conversion execution. Therefore, the write-down and conversion exchange mechanic should enable them to claim their rights at a later stage;
  - g) comply with their disclosure obligations under Regulation (EU) No 596/2014.

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<sup>6</sup> When setting out the internal aspects of write-down and conversion, insurance or reinsurance undertaking or group should at least consider the following aspects: legal impediments, accounting impediments, tax impact, instrument specific features, SPVs, hedges, accrued interest, liabilities held by the insurance or reinsurance undertaking or group itself, and adjustments to assumptions.

- can demonstrate how they would be able to update their balance sheet on the basis of the provisional valuation at short notice.

### **Guideline 9 – Assessment of feasibility: liquidity and funding in resolution**

- 1.32 When conducting the resolvability assessment in the area mentioned in point 5(a) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups are able to identify any impediments to resolution related to the business model and how it may give rise to liquidity needs in resolution, taking into account at least the following factors:
- a) the characteristics of insurance liabilities and related assets portfolios, with particular consideration of long-term assets and liabilities on the balance sheet;
  - b) the reinsurance strategy;
  - c) the size of funding needs during resolution, the availability of sources of funding, taking into account liquidity of assets and coverage of technical reserves by assets, especially in the unit-linked business, and impediments to the transfer of funds as required within the insurance or reinsurance undertaking or group;
  - d) the ability to, if applicable, obtain the support from an insurance guarantee scheme or other financial arrangements, and the capacity of the respective insurance guarantee scheme or other financing arrangements to support the resolution strategy;
  - e) the ability to maintain a risk management framework, including asset and liability management and hedging strategies, which ensure the fulfillment of insurance liabilities.
- 1.33 When conducting the resolvability assessment in the area mentioned in point 5(b)(i) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- have adequate mechanisms in place to determine the liquidity needs in the run-up to and during resolution, and to make forecasts, as well as arrangements to safeguard access to critical financial counterparties in resolution;
  - identify the entities and currencies that they consider material on the grounds of liquidity, and the potential locations of liquidity risk within the group;
  - simulate cash flows, for on and off-balance sheet items under different resolution scenarios:
    - a) in case of group resolution, for each material entity and, when relevant, for specific branches within the perimeter of the group on an individual basis;
    - b) over a range of time periods, from overnight to a sufficient time horizon following resolution (for instance, six months).
- 1.34 When conducting the resolvability assessment in the area mentioned in point 5(b)(ii) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- can demonstrate their ability to measure and report to the resolution authority their liquidity position at short notice and have capabilities to perform a liquidity analysis of current positions at the level of material entities and of the group, including to identify liquidity drivers in the run-up to resolution;
  - identify the liquidity drivers during resolution;
  - ensure that the liquidity analysis is updated as necessary at the level of material entities.



- 1.35 When conducting the resolvability assessment in the area mentioned in point 5(b)(iii) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- have the capacity to:
    - a) identify all assets that could potentially qualify as collateral eligible to support funding in resolution;
    - b) differentiate between encumbered and unencumbered assets, determining legal rights to both pledged and unpledged collateral;
    - c) monitor available and unencumbered collateral at the level of each material entity, subsidiary or branch;
    - d) report information on available collateral at a granular level (including on central bank eligibility, currency, type of assets, location, credit quality), even under rapidly changing conditions.
  - have built-up the ability to mobilise the available collateral, including developed and documented all necessary operational steps to mobilise collateral that may be located in subsidiaries and/or branches operating in different currencies.

#### **Guideline 10 – Assessment of feasibility: information systems and data requirements**

- 1.36 When conducting the resolvability assessment in the area mentioned in point 6(i) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups are able to report to resolution authorities and group-level resolution authorities about:
- the receipt of relevant services based on the developed service catalogues (as provided in Guideline 5), in which all the granular service information<sup>7</sup> is gathered and ensure these can be accessed in a reliable way, including in a stress situation, to support the implementation of the preferred resolution strategy;
  - any relations (and their conditions) with FMIs (as provided in Guideline 6) that need to be maintained to support the implementation of the preferred resolution strategy;
  - loss absorption and recapitalization capacity (as provided in Guideline 8);
  - potential liquidity needs (as provided in Guideline 9).
- 1.37 When conducting the resolvability assessment in the area mentioned in point 6(ii) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- have capabilities (including MIS and technological infrastructure) to support the timely provision of valuation data at a sufficient level of granularity to enable valuations to be performed within a suitable timeframe;
  - are able to demonstrate that they have quality assurance arrangements, through periodic testing and upgrading of MIS capabilities both in normal times and under stress scenarios, in place and ensure that their MIS capabilities achieve preparedness for resolution. The testing exercises aim to assess and provide validation whether MIS capabilities comply with the below principles, and should cover:
    - a) the swift provision of data and information to the resolution authority, competent authorities, the valuer and other relevant stakeholders;
    - b) the consistent aggregation of data across the different areas of the insurance or reinsurance undertaking or group, also in compliance with any additional guidance;

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<sup>7</sup> This should include at least: information on ownership of assets and infrastructure, pricing, contractual rights and agreements, as well as outsourcing arrangements.



- c) the sensitivity and flexibility of their internal valuation models as well as whether they assure a fair, prudent and realistic valuation.

Insurance and reinsurance undertakings or groups, are expected to report the results of the validation exercise to the management body and to the resolution authority. Validation reports should identify possible shortcomings and remedial actions.

- 1.38 When conducting the resolvability assessment in the area mentioned in point 6(iii) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups have processes and infrastructure in place to provide resolution authorities and group-level resolution authorities with a complete set of data regarding:
- types and characteristics of assets, in particular those related to unit-linked insurance products;
  - types and characteristics of insurance liabilities and their potential to be written down or converted;
  - loss absorption and recapitalization capacity of a wide range of liabilities;
  - provision of relevant services in a short timeframe, upon request.

Resolution authorities and group-level resolution authorities should also consider whether insurance or reinsurance undertakings or groups can demonstrate the ability to (i) adequately assess the level of their loss absorption capacity and (ii) provide information needed to execute the write-down and conversion tool, taking into account national provisions (iii) change insurance policies as instructed by the NRA. In this respect, insurers and reinsurance undertakings or groups are expected to have established a repository that includes a list of minimum information about each capital instrument and every other security issued by any group entity within the scope of Directive (EU) 2025/1, and a process for keeping this information up-to-date.

#### **Guideline 11 – Assessment of feasibility: communication**

- 1.39 When conducting the resolvability assessment in the area mentioned in point 7 of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- developed adequate and comprehensive communication plans and have in place governance arrangements to ensure an effective execution of those plans, taking into account relevant roles, responsibilities, all internal and external stakeholders and including, as appropriate, template documents and emails, frequently asked questions and answers and other tools to be used at key stages of the resolution period;
  - identify critical external and internal stakeholder groups, including, policyholders, beneficiaries, injured parties, creditors and market actors which need to be informed in the resolution process, including providers of relevant services or operational assets and keep up to date the list of these stakeholder groups;
  - have arrangements in place that ensure confidentiality requirements;
  - ensure that the expectations set out in this guideline are enshrined in the governance arrangements, which allow for a consistent, efficient and effective execution of the communication plan in different jurisdictions, taking into account, inter alia, local language, disclosure requirements and time differences;
  - ensure to proactively inform the resolution authority where disclosure requirements may unduly impact the implementation of the resolution strategy;
  - have identified any communications to market participants that they may be required to make under applicable national legal disclosure regimes.

## Guideline 12 – Assessment of feasibility: governance

- 1.40 When conducting the resolvability assessment in the area mentioned in point 8(i) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- are able to demonstrate that their governance structures, arrangements and procedures adequately address the process of data collection and aggregation across different areas of the insurance or reinsurance undertakings or groups, and for their timely delivery;
  - are able to demonstrate that their governance structures adequately address the efficient flow and exchange of information about resolution matters (process, channels, allocation of responsibilities) within the insurance or reinsurance undertaking (i.e. between the management board, the responsible senior level executive and all other relevant staff) and between insurance or reinsurance undertakings or group, resolution authorities and group-level resolution authorities and other authorities, enabling them to perform their respective roles before, during and after resolution;
  - have established a quality assurance process to ensure the completeness and accuracy of information (including for the purpose of the continuity of MIS capabilities) sent to resolution authorities for resolution planning purposes;
  - ensure that resolution-relevant information and its related governance are regularly reviewed by the internal audit.
- 1.41 When conducting the resolvability assessment in the area mentioned in point 8(ii) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- can demonstrate that resolution planning and resolvability are embedded in their governance. This requires adequate and clear lines of responsibility, reporting lines and escalation mechanisms up to and including the board and senior management, as well as adequate approval mechanisms (for both resolution planning and crisis management) and the consideration of resolvability aspects when making decisions materially impacting their legal structure, business model, reinsurance policy and reinsurance transactions (and their material changes), IT-infrastructure, governance, risk and capital management or any other material aspect of the insurance or reinsurance undertaking. The resolution authorities and group-level resolution authorities should consider whether those aspects are sufficiently documented;
  - have in place internal operational structures to facilitate resolution planning, in particular whether there is a person designated to be in charge of resolution planning, to facilitate the contacts with the resolution authority (executive director designated as in charge of resolution planning)<sup>8</sup>, a senior-level executive responsible for resolution

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<sup>8</sup> The executive director should be in charge of at least the following tasks: ensuring the accurate and timely provision of information, ensuring the undertaking is and remains in compliance with resolution planning requirements, ensuring that resolution planning is integrated into the overall governance processes, amending existing committees or establishing new committees to support resolution activities, signing off on the main deliverables and ensuring adequate delegation arrangements in this respect, as part of appropriate internal control and assurance mechanisms (such as the resolution reporting templates), updating on a regular basis the other members of the management body and of the supervisory body on the state of resolution planning activities and the resolvability of the insurance or reinsurance undertaking or group, which is documented by means of minutes.

- planning issues in the undertaking<sup>9</sup> and whether there are arrangements and procedures in place to ensure the quality of data submitted to the resolution authority;
- ensure that strategic decisions take into account resolution-related interconnections impacting resolvability, and inform resolution authorities and group-level resolution authorities without undue delay about material changes planned to elements such as the business model, financing model (especially funding by bonds and other debt instruments), the structure, the operational set-up (including changes to the IT infrastructure) and the governance having an impact on resolution planning activities or the implementation of the preferred resolution strategy and resolvability;
  - ensure that intra-group providers of relevant services and essential service providers have their own governance structure and clearly defined reporting lines, do not rely excessively on senior staff employed by other group entities;
  - in the case of a group headquartered in a third country, ensure that the entity is well staffed and its management is well informed about the group resolution strategy, including the decision-making processes in a crisis, and is able to balance decision-making by the group headquartered in a third country in going-concern, by taking into account the resolvability of local entities.
- 1.42 When conducting the resolvability assessment in the area mentioned in point 8(iii) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, consider whether insurance or reinsurance undertakings or groups:
- have governance procedures in place to support timely decision-making in resolution for an effective preparation and timely implementation of the resolution strategy by resolution authorities and group-level resolution authorities;
  - have in place a swift and efficient decision-making process commanding elements that can impact operational continuity, including, but not limited to, the following elements: activation of business continuity plans and/or contingency arrangements in resolution and during any re-organisation, allocation of access rights to back-up staff and to a potential special manager under Article 44 of Directive (EU) 2025/1; essential service providers' access to potential pre-funding, and communication of operational continuity elements to the authority and within the group to support any restructuring;
  - ensure that resolution activities are adequately staffed to ensure that decisions in the context of resolution before, during and after a resolution action can be made in a timely manner.

### **Guideline 13 – Assessment of credibility of a resolution strategy and its impact**

- 1.43 When conducting the resolvability assessment in the area mentioned in point 9(a) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should, at a minimum, assess whether the preferred resolution strategy meets the resolution objectives and whether there are any obstacles or risks for meeting those resolution objectives. In conducting this assessment, resolution authorities and group-level resolution authorities should take into account the activities performed by the insurance or reinsurance

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<sup>9</sup> The experienced senior-level executive should be in charge of at least the following tasks: coordinating and managing resolution activities (including preparation of workshops, questionnaires and other resolution authority requests), serving as the main point of contact for the resolution authority to ensure a coordinated approach for resolution planning and as the main point of contact for the implementation of the resolution strategy across the group, ensuring consistent and well communication with resolution authorities, coordinating the operationalization of the resolution strategy, participating in dry runs and, where necessary, establishing dedicated work streams to address resolution topics.

undertaking or group and assess whether implementation of the preferred resolution strategy or strategies would be likely to have a material adverse impact on any of the following:

- a) policyholders, beneficiaries and other stakeholders and their social welfare;
- b) insurance coverage and protection provided by the insurance policies in place;
- c) employees of the insurance or reinsurance undertaking or group;
- d) financial market functioning, and in particular market confidence;
- e) financial market infrastructures, and in particular:
  - i. whether the sudden cessation of activities would constrain the normal functioning of financial market infrastructures in a manner which negatively impacts the financial system as a whole;
  - ii. whether and to what extent financial market infrastructures could serve as contagion channels in the resolution process (in particular compared to winding-up);
- f) other financial institutions, and in particular:
  - i. whether resolution would raise the funding costs of or reduce the availability of funding to other financial institutions in a manner which presents a risk to financial stability (in particular compared to winding-up);
  - ii. the risk of direct and indirect contagion and macroeconomic feedback effects;
- g) the real economy and in particular on the availability of financial services.

1.44 When conducting the resolvability assessment in the area mentioned in point 9(b) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should consider the likely impact of the implementation of the resolution strategy on the financial systems or real economies of any Member State, its region or of the Union. For this purpose, resolution authorities or group resolution authorities should verify whether insurance or reinsurance undertakings or groups identify any potential contagion channels.

1.45 When conducting the resolvability assessment in the area mentioned in point 9(c) of the Annex to Directive (EU) 2025/1, resolution authorities and group-level resolution authorities should consider:

- a) the existence of adequate processes for coordination and communication and assurances on actions to be taken between home and host authorities, including in third countries, to enable the implementation of the resolution strategy;
- b) whether existing laws in relevant home and host jurisdictions overrides contractual termination rights in financial contracts that are triggered solely by the failure and resolution of an affiliated company.

## COMPLIANCE AND REPORTING RULES

- 1.1. This document contains Guidelines issued under Article 16 of the EIOPA Regulation. In accordance with Article 16(3) of the EIOPA Regulation, resolution authorities shall make every effort to comply with guidelines and recommendations.
- 1.2. Resolution authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or resolution framework in an appropriate manner.
- 1.3. Resolution authorities shall confirm to EIOPA whether they comply or intend to comply with these Guidelines, with reasons for non-compliance, within two months after the issuance of the translated versions.

- 1.4. In the absence of a response by this deadline, resolution authorities will be considered as non-compliant to the reporting and reported as such.

## ANNEX I: IMPACT ASSESSMENT

### OBJECTIVES

In accordance with Article 29 of the EIOPA Regulation, EIOPA carries out, where relevant, analyses of costs and benefits during the policy development process. The analysis of costs and benefits is undertaken according to an impact assessment methodology.

The starting point for this impact assessment is that existing provisions following from the level 1 text are already in place and that the other provisions included in this consultation paper will be implemented as proposed. As a result, this assessment only considers the additional impact of each specific policy issue under discussion.

This impact assessment covers the appropriate level of detail of the requirements connected to the resolvability dimensions (policy issue A) and the approach to the resolvability assessment for the alternative resolution strategies (policy issue B). It is based on a qualitative assessment performed by EIOPA.

In drafting these Guidelines, EIOPA sticks to the general objectives of the IRRD, as agreed by the legislators.

These general objectives are to enable the authorities to:

- Enhance preparation, coordination and cooperation
- Meeting the resolution objectives
- Proper functioning of the internal market and ensuring level-playing field

In view of the specific purpose of these technical standards, the following more specific objectives were identified, for resolution authorities to ensure:

- an adequate degree of preparedness for crisis situations;
- an effective and efficient policyholder protection in resolution and/or liquidation with a sufficient level of flexibility for resolution authorities which allows for the adjustment of the assessment of resolvability to the specificity of national markets, including the needs of policyholders;
- a level playing field through common minimum harmonisation rules with regard to the framework of the assessment of resolvability.

### POLICY ISSUES

#### POLICY ISSUE A: APPROPRIATE LEVEL OF DETAIL OF THE REQUIREMENTS CONNECTED TO THE RESOLVABILITY DIMENSIONS

Article 13(5) of the IRRD mandates EIOPA to specify further the matters and criteria for the assessment of resolvability of insurance and reinsurance undertakings or groups. In this regard the Annex to the

IRRД already provides a categorized list of resolvability dimensions together with some aspects that should be assessed within each resolvability dimension. That provides the general scope for the assessment of resolvability. However, within each resolvability dimension it is possible to create even more detailed provisions setting out more prescriptively the aspects that need to be assessed by resolution authorities and the specific activities to be carried out by the insurance or reinsurance undertakings or groups. For this, the experiences from the implementation of the BRRD could be used to more closely align with existing good practice. The European Banking Authority (EBA) published in 2022 guidelines on improving resolvability, which provide a broad scope of potential requirements that should be met by the institutions to be resolvable. These guidelines are the main tool to ensure the operational readiness to apply resolution tools. However, they have been developed at a more advanced stage of the banking resolution framework's development. The question arises, whether such a detailed framework should also be prepared for the insurance industry at the very outset of the development of its resolution framework, when certain essential aspects, such as the preferred resolution strategies, are still to be determined in the resolution planning process. Therefore, finding the appropriate level of detail of the requirements at the beginning of building the entire framework has been a key topic.

## POLICY ISSUE B: APPROACH TO THE RESOLVABILITY ASSESSMENT FOR THE ALTERNATIVE RESOLUTION STRATEGIES

The RTS on the content of the resolution plans assumes that it is possible to identify multiple preferred resolution strategies (for various resolution scenarios) in the resolution plan, to ensure a high level of optionality. It is necessary to assess the resolvability for every preferred resolution strategy, to ensure that these are feasible and credible. However, the RTS on the content of the resolution plans foresees that the resolution authority may also identify alternative resolution strategies (in case that the preferred resolution strategies are not feasible or credible to implement). This raises the question whether also these alternative resolution strategies should be subject to the same level of assessment of resolvability (considering that already several assessments might be conducted by the resolution authorities for the preferred resolution strategies).

## POLICY OPTIONS

### POLICY ISSUE A: APPROPRIATE LEVEL OF DETAIL OF THE REQUIREMENTS CONNECTED TO THE ASSESSMENT OF THE RESOLVABILITY DIMENSIONS

#### Policy option A.1: Detailed approach

With this approach the Guidelines provide a detailed and comprehensive list of requirements for each resolvability dimension creating the most complete resolvability assessment's framework, taking full advantage of the practical experiences from the implementation and application of the BRRD. In this regard, for all resolvability dimensions all lessons learned from the already existing frameworks for assessing the resolvability in other sectors of the financial system are taken into account. At the same

time the resolvability assessment framework is fully aligned with the specificity of the (re)insurance sector.

### **Policy option A.2: Fundamental approach**

With this approach only the most important provisions for each resolvability dimension from the Annex of IRRD will be included. This means only those provisions that are necessary to ensure a minimum level of resolvability of undertakings and leaving a sufficient level of flexibility for the resolution authorities to decide on further details. This approach is also most reflective of the fact that the IRRD framework is still in its early stages and some requirements might be too advanced to already include in these Guidelines.

## **POLICY ISSUE B: APPROACH TO THE RESOLVABILITY ASSESSMENT FOR THE ALTERNATIVE RESOLUTION STRATEGIES**

### **Policy option B.1: No requirement for the assessment of resolvability for alternative resolution strategies**

This approach assumes that there is no requirement for resolution authorities to conduct the assessment of resolvability for all alternative resolution strategies that they identify. Under this approach, the Guidelines explicitly state that there is no requirement that resolution authorities conduct the assessment of resolvability for the alternative resolution strategies.

### **Policy option B.2: Requirement for a full assessment of resolvability for alternative resolution strategies**

This approach assumes that, apart from the assessment of resolvability for all preferred resolution strategies, resolution authorities must conduct the assessment of resolvability for all alternative resolution strategies as well. This approach also assumes that the resolvability assessment for all alternative resolution strategies includes all the requirements under the resolvability dimensions. In principle, with the described approach, the resolvability assessment for alternative strategies is conducted under the same conditions as the assessment of the preferred resolution strategies.

### **Policy option B.3: Flexible requirement for the assessment of resolvability for alternative resolution strategies, allowing resolution authorities to decide on the extent of assessment**

This approach assumes that the resolution authority may conduct a resolvability assessment for the alternative resolution strategies (i.e. there is no obligation, but the resolution authority decides about the application of the requirement). In that regard, the resolution authority decides also about the extent of the application of the requirements for the resolvability assessment. The resolution authority decides to what extent the requirements in these Guidelines are applicable to the resolvability assessment of alternative resolution strategies.

## **IMPACT OF THE POLICY OPTIONS**



POLICY ISSUE A: APPROPRIATE LEVEL OF DETAIL OF THE REQUIREMENTS CONNECTED TO THE ASSESSMENT OF THE RESOLVABILITY DIMENSIONS

Policy option A.1: Detailed approach		
Costs	Policyholders	Risk of higher premiums, if the requirements create additional costs for the undertakings.
	Industry	Potentially higher administrative costs for the undertakings to meet the expectations and higher degree of intervention in the business' operations.
	Resolution authorities	Lower flexibility leading to extensive resources needed for the assessment of the resolvability of the undertakings.
	Other	No impact
Benefits	Policyholders	Resolvability assessed in more detail and therefore less risk of unexpected impediments in case of failure.
	Industry	Higher preparedness of undertakings against future crises.
	Resolution authorities	Comprehensive set of requirements that need to be met by the undertakings.
	Other	Higher harmonization.

Policy option A.2: Fundamental approach		
Costs	Policyholders	Some risk of higher premiums, if the requirements create additional costs for the undertakings but limited in comparison with the detailed approach.
	Industry	Slightly lower costs compared to the detailed approach.
	Resolution authorities	Some resources needed for the assessment of the resolvability of the undertakings but limited in comparison with the detailed approach.
	Other	No impact
Benefits	Policyholders	Resolvability assessed to a certain degree and therefore limited risk of unexpected impediments in case of failure, but more risk than with the detailed approach.

	Industry	Increased resilience with limited costs and impact on the functioning of the undertaking, but less preparedness compared to the detailed approach.
	Resolution authorities	Higher flexibility leads to a lower number of resources needed for the assessment of the resolvability of the undertakings, compared to the detailed approach.
	Other	Higher harmonization of the regulations of the insurance and reinsurance sector, but limited compared to the detailed approach.

## POLICY ISSUE B: APPROACH TO THE RESOLVABILITY ASSESSMENT FOR THE ALTERNATIVE RESOLUTION STRATEGIES

Policy option B.1: No requirement for the assessment of resolvability for alternative resolution strategies		
Costs	Policyholders	Potentially higher losses in crises due to a weaker preparation for resolution.
	Industry	Potential risks of contagion and reputational risks in crises due to weaker preparation for resolution.
	Resolution authorities	Potential reputational costs related to weaker preparation for resolution.
	Other	Potentially higher risk to financial stability in case of crisis due to less robust preparation for resolution.
Benefits	Policyholders	No impact
	Industry	Potentially lower costs.
	Resolution authorities	Low administrative burden.
	Other	No impact

Policy option B.2: Requirement for the full assessment of resolvability for alternative resolution strategies		
Costs	Policyholders	Potential impact on price of policies and premiums due to higher costs related to stricter requirements for undertakings.
	Industry	Potentially higher costs

	Resolution authorities	Higher costs related to building additional capacity to assess also alternative resolution strategies.
	Other	No impact
<b>Benefits</b>	Policyholders	Potentially lower losses in crises due to a better preparation to resolution.
	Industry	Less risks of contagion and reputational risks in crises, due to stronger preparation for resolution.
	Resolution authorities	Better preparation for potential crisis across the EU
	Other	Potentially lower risk to financial stability in case of crisis due to better preparation for resolution.

**Policy option B.3: Flexible requirement for the assessment of resolvability for alternative resolution strategies, allowing resolution authorities to decide on extent of assessment**

<b>Costs</b>	Policyholders	Potential impact on price of policies and premiums due to higher costs if resolution authorities decide to apply the requirements more broadly for alternative resolution strategies, but lower in comparison with option B.2.
	Industry	Potentially higher costs, but lower in comparison with option B.2.
	Resolution authorities	Higher costs related to building the additional capacity to assess also alternative resolution strategies, but lower in comparison with option B.2.
	Other	No impact
<b>Benefits</b>	Policyholders	Potentially lower losses in crises due to a better preparation for resolution
	Industry	Less risks of contagion and reputational risks in crises, due to stronger preparation for resolution, but potentially higher risk in comparison to option B.2., dependent on the approach taken by resolution authorities.
	Resolution authorities	More proportionate and rational allocation of administrative costs and resources with a higher level of flexibility and more possibilities to consider national specificities.
	Other	Potentially lower risk to financial stability in case of crisis resulting from the necessity to support failing undertakings due to better

		preparation for the resolution, but potentially higher risk compared to option B.2., dependent on the approach taken by resolution authorities.
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## COMPARISON OF POLICY OPTIONS

### POLICY ISSUE A: APPROPRIATE LEVEL OF DETAIL OF THE REQUIREMENTS CONNECTED TO THE ASSESSMENT OF THE RESOLVABILITY DIMENSIONS

EFFECTIVENESS			
	Adequate degree of preparedness for crisis situations	Level playing field through common minimum harmonisation rules	Flexibility for the resolution authorities and potential for the consideration of national specificities
Policy option A.1	++	++	0
Policy option A.2	+	+	++

EFFICIENCY			
	Adequate degree of preparedness for crisis situations	Level playing field through common minimum harmonisation rules	Flexibility for the resolution authorities and potential for the consideration of national specificities
Policy option A.1	+	0	0
Policy option A.2	++	++	++

### POLICY ISSUE B: APPROACH TO THE RESOLVABILITY ASSESSMENT FOR THE ALTERNATIVE RESOLUTION STRATEGIES

EFFECTIVENESS			
	An adequate degree of preparedness for crisis situations	Level playing field through common minimum harmonization	Flexibility for the resolution authorities and potential for the consideration of national specificities
Policy option B.1	0	+	+

Policy option B.2	++	++	0
Policy option B.3	+	0	++

EFFICIENCY			
	An adequate degree of preparedness for crisis situations	Level playing field through common minimum harmonization	Flexibility for the resolution authorities and potential for the consideration of national specificities
Policy option B.1	0	++	++
Policy option B.2	+	0	0
Policy option B.3	++	++	+

## PREFERRED OPTION

Based on the impact assessment, it was decided to take the fundamental approach regarding the level of detail of the requirements connected to the assessment of the resolvability dimensions, and to include a more flexible requirement for the assessment of resolvability for alternative resolution strategies, allowing resolution authorities to decide on the extent of the assessment.

Even though more detailed provisions could be developed, selecting a detailed approach would more strongly burden resolution authorities and undertakings at this early stage of regulatory implementation and would allow less for the consideration of national specificities. Furthermore, considering the development and implementation of the recovery and resolution framework is a lengthy process with some operational steps to be taken still, such as the selection of resolution strategies, it would be more proportionate to keep the level of detail of the Guidelines more limited to what is necessary to ensure a level-playing field at this stage.

A full assessment of all resolvability dimensions' requirements for any resolution strategy (both preferred and alternative) would ensure a higher level of resolvability and, consequently, may support more strongly a successful application of the resolution strategy. However, a full application of the resolvability assessment's requirements may create an excessive administrative burden on both resolution authorities and undertakings, that is not proportionate to the objectives of the guidelines. Therefore, a balanced approach with regard to alternative resolution strategies, with a responsibility for resolution authorities to decide on the extent of the assessment, is preferred.

## OVERVIEW OF QUESTIONS FOR CONSULTATION

The questions are set out in an EU-Survey ([link](#)).

## Privacy statement related to Public (online) Consultations

### ► Introduction

1. The European Insurance and Occupational Pension authority (EIOPA) is committed to protecting individuals' personal data in accordance with Regulation (EU) 2018/1725<sup>10</sup> (further referred as "the Regulation").
2. In line with article 15 and 16 of the Regulation, this privacy statement provides information to the data subjects relating to the processing of their personal data carried out by EIOPA.

### ► Purpose of the processing of personal data

3. Personal data is collected and processed to manage online public consultations EIOPA launches, and to conduct online surveys, including via online platform EUSurvey<sup>11</sup>, and to facilitate further communication with participating stakeholders (e.g., when clarifications are needed on the information supplied or for the purposes of follow-up discussions that the participating stakeholders may agree to in the context of the consultations or surveys).
4. The data will not be used for any purposes other than the performance of the activities specified above. Otherwise you will be informed accordingly.

### ► Legal basis of the processing of personal data and/or contractual or other obligation imposing it

5. The legal basis for this processing operation are the following :
  - Regulation (EU) 1094/2010, and notably Articles 8, 10, 15, 16, 16a and 29 thereof
  - EIOPA's Public Statement on Public Consultations
  - EIOPA's Handbook on Public Consultations
6. In addition, in accordance with Article 5(1)(a) of the Regulation, processing is lawful as it is necessary for the performance of a task carried out in the public interest.

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<sup>10</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39–98.

<sup>11</sup> For more information on the processing of personal data in EUSurvey, please see the [dedicated privacy statement](#).

► **Controller of the personal data processing**

7. The controller responsible for processing the data is EIOPA's Executive Director.

8. Address and email address of the controller:

Westhafen Tower, Westhafenplatz 1

60327 Frankfurt am Main

Germany

[fausto.parente@eiopa.europa.eu](mailto:fausto.parente@eiopa.europa.eu)

► **Contact detail of EIOPA's Data Protection Officer (DPO)**

9. Westhafenplatz 1, 60327 Frankfurt am Main, Germany

[dpo@eiopa.europa.eu](mailto:dpo@eiopa.europa.eu)

► **Types of personal data collected**

10. The following personal data might be processed:

- Contact details (name, email address, phone number).
- Employment details (company and job title).

► **Recipients/processors of the personal data collected**

11. Data will be collected and disclosed to the relevant staff members part of the Department/Unit in charge of the consultation/surveys and also to other EIOPA's staff on a need-to-know basis (e.g IT staff, security officer).

► **Retention period**

12. Personal data collected are kept by until the finalisation of the project the public consultation or the survey relate to.

13. The personal data collected in EUSurvey are deleted from EUSurvey as soon as the period to provide answers elapsed.

► **Transfer of personal data to a third country or international organisations**

14. No personal data will be transferred to a third country or international organisation. The service provider is located in the European Union.

► **Automated decision-making**



15. No automated decision-making including profiling is performed in the context of this processing operation.

► **What are the rights of the data subject?**

16. Data subjects have the right to access their personal data, receive a copy of them in a structured and machine-readable format or have them directly transmitted to another controller, as well as request their rectification or update in case they are not accurate. Data subjects also have the right to request the erasure of their personal data, as well as object to or obtain the restriction of their processing.
17. Where processing is based solely on the consent, data subjects have the right to withdraw their consent to the processing of their personal data at any time.
18. Restrictions of certain rights of the data subject may apply, in accordance with Article 25 of Regulation (EU) 2018/1725.
19. For the protection of the data subjects' privacy and security, every reasonable step shall be taken to ensure that their identity is verified before granting access, or rectification, or deletion.
20. Should the data subjects wish to exercise any of the rights provided in paragraphs 16 and 17 above, please contact EIOPA's DPO ([dpo@eiopa.europa.eu](mailto:dpo@eiopa.europa.eu)).

► **Who to contact if the data subjects have any questions or complaints regarding data protection?**

21. Any questions or complaints concerning the processing of the personal data can be addressed to EIOPA's Data Controller ([fausto.parente@eiopa.europa.eu](mailto:fausto.parente@eiopa.europa.eu)) or EIOPA's DPO ([dpo@eiopa.europa.eu](mailto:dpo@eiopa.europa.eu)).
22. Alternatively, the data subjects can have recourse to the **European Data Protection Supervisor** ([www.edps.europa.eu](http://www.edps.europa.eu)) at any time, **as provided in Article 63 of the Regulation.**