

To: Solvency II WG  
From: Prudential Team [CoAuthorsText]  
cc:  
Date: 07-06-2022  
Reference: ECO-SLV-22-225

Subject: Assessment of EIOPA's statement on supervision of run-off undertakings

## Summary

On 7 April, EIOPA published its updated supervisory statement on supervision of run-off undertakings which aims at a high-quality and convergent supervision while taking into account the specific nature and risks, the principle of proportionality and the prudent person principle. More details can be found [here](#). Insurance Europe had responded in an earlier [consultation invitation](#) based on feedback received by members ([ECO-SLV-21-275](#)).

The secretariat has prepared an assessment of the updated statement which can be found below. Resolved comments are coloured in **green**, while **orange** and **red** indicate those that are partially or not addressed respectively. Overall, on the positive side, the industry's remarks on proportionality and run-off definition have been taken forward by EIOPA. However, no definition on materiality nor distinction into business cases are made, while some additional notification requirements are still maintained.

Should members have any questions or feedback, please contact [prudential@insurancееurope.eu](mailto:prudential@insurancееurope.eu).

## Detailed assessment

### Context and objective

- (2.1) EIOPA addressed the industry's remark of an improved definition of "run-off business model" by adding a reference note in paragraph 3.1. EIOPA has also included the reduction of business complexity as one of the benefits of run-off business.
- (2.2) EIOPA confirmed that proportionality is applied throughout its statement and added a reference note to reflect it. However, EIOPA pushed back on the industry's concerns for the new obligations that will be created outside of Solvency II and kept their initial text on that matter.
- (2.3) EIOPA acknowledged that this paragraph does not indicate a negative development, but it intends to keep its wording for awareness.
- (2.5) EIOPA confirmed that they have performed an analysis on run-off business but has not provided any further results or explanations. EIOPA has also clarified that portfolio transfers with limited or new business are in scope.
- (2.6) EIOPA added a reference to Article 29 of the Solvency II Directive, as requested by the industry, to highlight the need of a risk-based and proportionate supervision.

### Definition of run-off

- (3.1) EIOPA addressed the industry's remark for improving the definition of "run-off business models" by adding a reference note in paragraph 3.1.
- (3.2) EIOPA did not clarify what should be considered as material in terms of run-off business. EIOPA has provided some clarification on the industry's request for explicit exclusion of cases where an undertaking is in run-off for a specific part of its business, however these do not seem appropriate.

- (3.3) EIOPA addressed the industry's concern by removing the reference to "search for yield" from the original text.
- (3.4) The point made by the industry was acknowledged but EIOPA does not believe that the wording of paragraph 3.4 is opposing it.
- (3.5) EIOPA does not agree that a differentiation between life and non-life business is required and has not amended the paragraph.

#### **Decision to go into run-off**

- (4.1) EIOPA's response on the comment made by industry is not deemed sufficient. Whilst EIOPA notes that the expectation to notify the supervisor is not a legal requirement, it does not clarify why this notification is not considered as part of an ad-hoc ORSA.
- (4.2) EIOPA agreed with the point raised by industry, that an ad-hoc SFCR should be produced after the conclusion of the run-off contract and amended the paragraph.
- (4.3) EIOPA did not address the industry's remark on distinguishing between cross-border run-off transfers and run-off of cross-border business without a transfer.
- (4.4) EIOPA clarified that this paragraph does not require additional protective actions but emphasizes the need to identify potential risks when these may arise.

#### **Specialised run-off undertakings through acquisition of an insurance undertaking or transfer of portfolio**

- (5.2) EIOPA keeps the requirement of producing an external actuarial report in case of a run-off acquisition (Article 39 of the Solvency II Directive).
- (5.4) Nothing to address: a general comment was made by the industry noting that paragraphs 5.4 to 5.12 should be applied in every transaction in the insurance market and are not specific to run-off business.
- (5.5) EIOPA does not agree that this paragraph is only applicable to life undertakings and therefore no further distinction is made between the different types of business.
- (5.6) EIOPA does not intend splitting the different cases of insurance/reinsurance, life/non-life, transfers/M&A transactions.
- (5.9) Reference on proportionality was added under paragraph 2.4.
- (5.10) EIOPA has kept the wording of "reasonable policyholder expectations", but also added a reference to external, non-discretionary factors.
- (5.11) Whilst EIOPA did not amend its wording as per industry's suggestion, the paragraph was rephrased to clarify where the remediation actions should be applied as well as the expectations.
- (5.12-5.14, 5.16, 5.18-5.19) EIOPA does not agree with the response provided by the industry and therefore has not amended the paragraphs.

#### **On-going supervision**

- (6.1) EIOPA acknowledged the industry's remark on clarifying that all companies are regulated by the same requirements but did not amend the paragraph to reflect that.
- (6.2) Whilst EIOPA agrees that this would be part of the normal supervisory review process, it also notes that additional engagement is expected in case of additional risks.
- (6.3) EIOPA acknowledged the industry's response in the consultation.
- (6.5) Whilst EIOPA acknowledges that migration to new IT system can reduce risks, it does not reflect it in the paragraph.
- (6.6) While there is no specific proposal from the industry, EIOPA does not agree with IE consultation response that technical provisions do not depend on policyholders' reactions and therefore no change has been made.
- (6.8) EIOPA agreed with the industry's response and amended the paragraph to include that expenses can be reduced.
- (6.9) EIOPA agreed with the industry's response and noted that the cases raised by the industry can be considered when defining management actions.

- (6.10) EIOPA amended the paragraph to reflect that new products can be better suited for the policyholder and they are not necessarily a negative development.
- (6.11) EIOPA does not agree with the industry's response and has not removed nor amended the paragraph.
- (6.13) EIOPA has not amended the paragraph to reflect that reinsurance recoverables of the insurer and best estimate of reinsurer can be different based on assumptions used.
- (6.14) EIOPA agreed with the industry and amended the paragraph.
- (6.15) Details on prescription of reinsurance contract have been removed and paragraph is now included under already existing paragraph 6.25.
- (6.16) EIOPA agreed that their sentence on run-off's investment objectives was a bit too one-sided and slightly amended it, but they did not delete it as per the industry's recommendation. EIOPA also did not consider the consultation response on the point of a higher risk strategy adopted by a run-off undertaking.
- (6.17) EIOPA took into consideration the consultation response on the terms and conditions of the contract but did not agree on the lower complexity of run-off business as this was noted by the industry, and therefore, has not amended the paragraph in that respect.
- (6.22-6.23) The points raised by the industry were addressed.
- (6.24) EIOPA did not remove the second sentence as suggested by the industry.
- (6.25) EIOPA did not address the comment raised by Insurance Europe. Therefore, run-off undertakings with material reinsurance exposure will have to evaluate the appropriateness of the standard formula as part of their ORSA.
- (6.26) EIOPA reworded the paragraph to reflect the comment raised by the industry (the amended wording is now included under paragraph 4.2).
- (6.27) EIOPA did not address the industry's comment on upper bound of cession rate or financial guarantees.
- (6.28) The paragraph was not amended to reflect the industry's comment that the focus should be on the level of the capital base.

#### **Conduct of business supervision**

- (7.1) EIOPA updated the wording of the paragraph to reflect the comment raised by the industry.
- (7.4) EIOPA agrees that the focus of run-off undertakings on existing policyholders can be beneficial however no further reference has been added to the paragraph.
- (7.7) EIOPA removed the wording on the additional reporting as requested by the industry.