

To: Solvency II Working Group  
From: Prudential Team  
cc:  
Date: 20 July 2021  
Reference: ECO-SLV-21-208

Subject: EIOPA statement on supervisory practices and expectations in case of breach of the Solvency Capital Requirement

## Summary

The 12 July EIOPA issued a [statement on supervisory practices and expectations in case of breach of the Solvency Capital Requirement \(SCR\)](#), following the consultation launched in February 2021.

With this supervisory statement EIOPA aims to foster supervisory convergence in the situations where insurance and reinsurance undertakings breach their capital requirement, in particular addressing the recovery plan required.

The statement is accompanied with the [resolution of comments](#) from the public consultation, the [feedback statement](#) to stakeholders and the [impact assessment](#) developed based on the input provided during the consultation period.

Please find more information [here](#).

## Assessment

In its response ([here](#)) Insurance Europe highlighted that:

- **Convergence of supervisory practices must focus on supervisory actions**, and not on delivering the same outcomes for all companies regardless of their circumstances.
- **Actions must consider the specific situation an individual insurer is facing**, as this is crucial to facilitate a successful recovery.
- **Early supervisory** measures currently taken by NSAs before an actual SCR breach **go beyond the regulation and lead to an uneven playing field**. Therefore, a minimum level of harmonisation within EU members states is required to ensure that supervisory measures only begin at the correct point.
- Although an analysis of the causes of a breach is necessary, **the recovery plan should focus primarily on restoring compliance with the SCR**.
- The mention of the principle of **proportionality** regarding the preparation of the recovery plan is welcome.

The secretariat did a first assessment of the final statement and noted that, compared to the draft, EIOPA took on board some key industry comments and:

- **Toned down the risk of breach associated to the current crisis**
  - *“the current environment may amplify the risks of non-compliance” instead of “amplifies” and “The ongoing uncertainty could lead to breaches of SCR in the future” instead of “can”*
- **Relieved the requirement for NSAs to request a detailed analysis on the causes of breach in the recovery plan**, as we highlighted that the focus should be more on swift recovery during the short time allocated to draft the plan
  - *“supervisory authorities should request from insurance and reinsurance undertakings, as part of the recovery plan or otherwise, an analysis of the key aspects of the causes of non-compliance and of any material shortcomings in their risk management system”*
- EIOPA also emphasized that *“In case of cross-border business, the home supervisory authority should inform the host supervisory authorities of the decision made”* and that **the interest of all policyholders** when taking a decision on recovery plans and measures **needs to take into account both domestic and cross-border activities.**