

Assessment of the final IRRD 4CT text

Scope of the directive

<u>Agreement</u>	<u>IE assessment</u>	<u>References/L2</u>
<p>The scope includes:</p> <ul style="list-style-type: none"> • Undertakings under SII scope, • parent undertakings established in the Union, • insurance holdings and mix financial holdings established in the Union, • parent insurance holdings and parent mix financial holdings established in a member state (MS), • union parent insurance holdings and union parent mix financial holdings, • branches of undertakings established in third countries and • entities that provide essential services to undertakings under resolution. 	<p>Neutral</p> <p>-</p>	<p>Recitals: -</p> <p>Dir. Arts: 1</p> <p>4CT: 94- 103</p> <p>Level 2: -</p>

Pre-emptive recovery plans

<u>Agreement</u>	<u>IE assessment</u>	<u>References/L2</u>
<p>Scope</p> <p>Minimum market coverage of 60% of the member states’ life and non-life insurance and reinsurance markets, respectively.</p> <p>Solo undertakings to be included based on risk-based criteria (size, business model, risk profile, interconnectedness, substitutability, their importance for the economy to the Member States in which they operate and encompassing in particular significant cross-border activities).</p> <p>Small and non-complex undertakings are automatically excluded but can be included by the NSA if they represent a particular regional or national risk.</p> <p>Groups are to be included also based on risk-based criteria, i.e. not by default pre-emptive recovery plans for all groups.</p> <ul style="list-style-type: none"> • Subsidiary-level plans could be required if a group plan is not in place. The text allows for subsidiary requirement if a national supervisory authority (NSA) finds the group plan inadequate to cover a subsidiary under its supervision, the NSA can request a revised plan. If this revised plan still doesn't meet the NSA's expectations, a subsidiary plan can be requested. • Subsidiaries of third-country undertakings may consider third-country pre-emptive recovery plans. <p>Frequency of update</p> <p>Plan update every two years or in the case of changes in the legal or organisational structure or a material change in the financial position.</p> <p>Content of the plans detailed in level 1.</p> <ul style="list-style-type: none"> • A summary of the plan's key elements. 	<p>Mixed</p> <p>The maintenance of the minimum market coverage is not a positive outcome, even if the text has lowered the minimum market coverage from 80% to 60%. On the other hand, there are favourable features like excluding small firms, biennial plan updates, reduced subsidiary planning, risk-based group scope, and considering third-country plans.</p>	<p>Recitals: 13, 18-23</p> <p>Dir. Arts: 2, 5, 6, 7, 8</p> <p>4CT: 23, 28-33, 124, 125, 230-290</p> <p>Level 2:</p> <p>EIOPA RTS on market share for the minimum market coverage and risk criteria applicable in the pre-emptive recovery plan.</p> <p>EIOPA guidelines on pre-emptive recovery plan indicators and scenarios used in the development of the plans.</p> <p>EIOPA RTS on the content of pre-emptive recovery plans.</p>

<ul style="list-style-type: none"> • A description of the business or group, with a summary of any significant changes since the last plan. • The framework of indicators. • Details on how the recovery plan was developed (application and update) • A range of remedial action. • A communication strategy. • If the Solvency Capital Requirement has been breached in the past 10 years, an assessment of the recovery plan and the measures taken to regain compliance. 		
--	--	--

Resolution plans

<u>Agreement</u>	<u>IE assessment</u>	<u>References/L2</u>
<p>Scope</p> <p>The scope of resolution planning includes undertaking likely to be positive in the public interest assessment or with critical functions.</p> <p>Minimum market coverage of 40% of the member states' life and non-life insurance and reinsurance markets, respectively.</p> <p>Small and non-complex undertakings are automatically excluded but can be included by the resolution authority if they represent a particular regional or national risk.</p> <p>Groups to be included also based on risk-based criteria:</p> <ul style="list-style-type: none"> • Subsidiary-level plans could be required if a group plan is not in place. • A third-country resolution strategy could be considered. <p>Frequency of update</p> <p>Plan update every two years or in the case of changes in the legal or organisational structure or a material change in the financial position.</p> <p>Content of the plans detailed in level 1.</p> <ul style="list-style-type: none"> • A summary of the plan's key elements. • A summary of significant changes to the entity since the last resolution-related information was filed. • A demonstration of the separability of critical functions and core business lines from other operations. • Identification of assets expected to qualify as collateral. • An estimated timeframe for executing key aspects of the plan. • A thorough assessment of resolvability, including feasibility and credibility of normal insolvency proceedings. • Measures required to address or remove resolvability impediments as identified in assessments. • Explanation of how resolution options could be financed without extraordinary public financial support, aside from 	<p>Mixed</p> <p>The maintenance of the minimum market coverage is not a positive outcome, even if the text has lowered the minimum market coverage from 70% to 40%. On the other hand, there are favourable aspects like excluding small firms, biennial plan updates, reduced subsidiary planning, and considering third-country resolution strategy.</p>	<p>Recitals: 8, 13, 20-23</p> <p>Dir. Arts: 2, 9, 10, 11, 12</p> <p>4CT: 18, 23, 30-33, 124, 125, 291-352</p> <p>Level 2:</p> <p>EIOPA guidelines on the identification of critical functions.</p> <p>EIOPA RTS on the content of resolution plan</p>

<p>insurance guarantee schemes or financing arrangements where available.</p> <ul style="list-style-type: none"> • Detailed descriptions of different resolution strategies and timescales for various scenarios. • A description of critical interdependencies. • Analysis of the plan's impact on employees, associated costs, and consultation procedures with staff, respecting national dialogue systems with social partners. • A communication plan for media and the public. • A description of essential operations and systems needed to maintain continuous operational processes. • Any opinions from the entity about the resolution plan. <p>For group resolution plans, additional content should include:</p> <ul style="list-style-type: none"> • Resolution actions for each entity to ensure continuity of critical functions. • Analysis of the applicability of resolution tools and powers in a coordinated manner. • Third country arrangements for cooperation with authorities in third countries. • Measures for legal and economic separation of functions or business lines to facilitate group resolution, considering intra-group dependencies. • Identification of funding sources for group resolution actions, principles for sharing financial responsibilities without assuming extraordinary public financial support. 		
---	--	--

Financing arrangements

<u>Agreement</u>	<u>IE assessment</u>	<u>References/L2</u>
<p>Member states should establish one or more financing arrangements.</p> <p>The text foresees flexibility to establish contributions on an ex-ante or ex-post (or both) basis.</p> <p>The compensation provided by the NCWO principle is not restricted to policyholders. Member states may also extend these financial arrangements to cover additional costs related to the resolution tools.</p> <p>NWCO compensation for policyholders under FoS/FoE to be provided by home Member State financing arrangement.</p> <p>Member states may use the administrative structure of the national IGS.</p>	<p>Negative</p> <p>The inclusion of MS flexibility is positive but further limitations on the possible uses of the funding would have been beneficial.</p>	<p>Recitals: 37a Dir. Arts: 2, 26, 77a 4CT: 47a, 127, 529, 1169</p> <p>Review: After 60 months of entering into force, the EC should submit a report containing, inter alia the state of play of resolution financing arrangements.</p>

Insurance Guarantee Scheme

<u>Agreement</u>	<u>IE assessment</u>	<u>References/L2</u>
<p>The definition of insurance guarantee schemes includes the continuation of insurance policies.</p> <p>The insurance guarantee scheme can be assigned with the duties and powers of a bridge undertaking.</p>	<p>Positive</p> <p>The national IGS would be able to continue insurance policies and act as a bridge undertaking.</p>	<p>Recitals: 29, 65a, 71b Dir. Arts: 2, 33a, 91a 4CT: 39, 75, 81, 162, 655, 1323</p> <p>Review: Inclusion of a review clause (24 months after entry into force) to assess the necessity of introducing the necessary steps to introduce a minimum baseline for insurance guarantee schemes across the Union.</p>

Set-up of resolution authorities

<u>Agreement</u>	<u>IE assessment</u>	<u>References/L2</u>
<p>Member states to create national resolution authorities (NRA) or set these entities within existing authorities (eg. national central banks, competent ministries, National Supervisory Authorities (NSAs)).</p> <p>If a member state sets up the NRA within an existing authority, some conditions apply to avoid conflicts of interest and effective operational independence.</p>	<p>Neutral</p> <p>-</p>	<p>Recitals: 15-16 Dir. Arts: 2, 3 4CT: 25-26, 137a, 193-207</p>

Ladder of intervention

<u>Agreement</u>	<u>IE assessment</u>	<u>References/L2</u>
<p>Resolution authorities have extensive powers to remove impediments to resolvability (change in intra-group agreements, limits to individual or aggregate exposures, additional information requirements, divest specific assets...).</p> <p>Amendments to Solvency II Directive (to be included in SII revision): New Article 136a giving powers to NSAs when undertaking has deteriorating solvency including updating recovery plans, taking actions in pre-emptive recovery plan and restricting variable remuneration, bonuses, dividends etc.</p>	<p>Negative</p> <p>-</p>	<p>Recitals: 25, 28-32 Dir. Arts: 15, 83 4CT: 35, 38-42, 372-389, 1225-1248</p> <p>Level 2: EIOPA guidelines on the application of alternative measures</p>

Resolution conditions

<u>Agreement</u>	<u>IE assessment</u>	<u>References/L2</u>
<p>Resolution conditions:</p> <p>a) insurance or reinsurance undertaking is failing or likely to fail (FOLF);</p> <p>b) no reasonable prospect that any alternative private sector measures or supervisory action would prevent the failure</p> <p>c) resolution action is necessary for the public interest.</p> <p>FOLF:</p> <p>a) A breach or likely breach of the MCR (no prospect to restore it).</p> <p>b) no longer fulfils (or in the near future) the conditions for authorisation or fails seriously in its obligations under the laws and regulations to which it is subject,</p> <p>c) Undertaking's assets are under the value of the liabilities (or in the near future).</p> <p>d) unable to pay its debts or other liabilities, including payments to policyholders or beneficiaries (or in the near future).</p> <p>e) extraordinary public financial support is required.</p> <p>The NSA shall not adopt resolution actions under an undertaking under resolution without the agreement of the NRA.</p>	<p>Neutral</p> <p>-</p>	<p>Recitals: 28</p> <p>Dir. Arts: 19</p> <p>4CT: 38, 433-444</p> <p>Level 2: -</p>

Other topics

<u>Agreement</u>	<u>IE assessment</u>	<u>References/L2</u>
<p><u>Resolution tools</u></p> <p>The conversion of eligible liabilities into capital instruments may apply to insurance claims.</p> <p>Resolution authorities could adapt tools to mutual undertakings.</p> <p><u>Conglomerates</u></p> <p>The national competent authorities should transmit the pre-emptive recovery and the resolution plans to the banking competent authorities.</p> <p>Banking competent authorities should be invited to the resolution colleges as observers.</p> <p><u>European resolution college</u></p> <p>The NRAs may establish a European resolution college to deal with third-country subsidiaries or branches established in two or more member states.</p>	<p>Positive</p> <p>The possibility of converting insurance claims and adapting resolution tools to other legal forms was included.</p> <p>Mixed</p> <p>Amendments to the conglomerates' planning requirements are considered a step forward. However, it is preferred to introduce an option of one planning requirement.</p> <p>Negative</p> <p>Introduction of a European resolution college</p>	<p><u>Resolution tools</u></p> <p>Recitals: -</p> <p>Dir. Arts: 26</p> <p>4CT: 519</p> <p>Level 2: -</p> <p><u>Conglomerates</u></p> <p>Recitals: 12,</p> <p>Dir. Arts: 2, 7, 10, 61, 63, 68, 87, 91</p> <p>4CT: 22, 192a, 284, 332, 947, 965, 1055, 1300, 1323</p> <p><u>European resolution college</u></p> <p>Recitals:</p> <p>Dir. Arts: 68a</p> <p>4CT: 1067a</p> <p>Review: After 60 months of entering into force, the EC should submit a</p>

	report containing, inter alia, the feasibility and preconditions for allowing financial conglomerates to draft one single plan for pre-emptive recovery and resolution plan.
--	--

EC / EIOPA empowerments

<u>Agreement</u>	<u>IE assessment</u>	<u>References/L2</u>
<p>EIOPA Guidelines</p> <ul style="list-style-type: none"> • Simplified obligations - eligibility criteria (30 months). • Pre-emptive recovery plans - quantitative or qualitative indicators (24 months). • Resolution plans - Criteria critical functions definition (24 months). • Criteria for resolvability assessment (24 months). • Further detail in the application and the circumstances for the application of alternative measures to remove resolvability impediments (30 months). • On how information should be presented for the purpose of confidentiality requirements (30 months). <p>EIOPA RTS / ITS</p> <ul style="list-style-type: none"> • Method to determine the market share and pre-emptive recovery plan risk criteria(18 months). • Pre-emptive recovery plans - the content of the plan (18 months). • Resolution plans - the content of the plan (18 months). • Group resolution plans - the content of the plan. • ITS on specific procedures and set of minimum standard forms and templates for the provision of information to the NRA (18 months). • Different elements in the context of valuation (an independent person, methodologies...) (30 months). • The methodology for calculating the buffer for additional losses to be included in provisional valuations (30 months). • Valuation of liabilities arising from derivatives (30 months). • Contractual terms in the context of Article 50 contractual recognition of resolution stay powers (30 months). • Methodology to carry out the valuation in the context of Article 54 Safeguard for shareholders, policyholders, beneficiaries, claimants or other creditors (30 months). • The operational functioning of resolution colleges (18 months). 	<p>Negative</p> <p>Key aspects of the more detailed work to be developed in EIOPA guidelines (ie. critical functions definition, resolvability criteria and removal of impediments to resolvability)</p>	<p>Recitals: 72-74 Dir. Arts: 4, 5, 9, 10, 12, 13, 15, 24, 25, 38a, 50, 54, 55, 64, 91a, 91b 4CT: 82-84, 217, 238, 253-256, 319-322, 333-335, 350, 358, 390, 495-500, 511-512, 726, 859-860, 887, 1002, 1323</p> <p>Level 2: EIOPA empowerments.</p> <p>Review: EIOPA/EC review on IGS and on the directive implementation.</p>



<p>* In the brackets, the months after the directive's entry into force are indicated (xx months), during which the RTS or guideline should be completed.</p> <p>Insurance guarantee Schemes</p> <p>By 24 months after implementation, the Commission (in consultation with EIOPA) is tasked to submit a report assessing the appropriateness of minimum common standards for insurance guarantee schemes.</p> <p>Review clause</p> <p>By 60 months after implementation, the Commission (in consultation with EIOPA) shall submit a report assessing:</p> <ul style="list-style-type: none"> • if the directive has achieved its objectives, • the role of resolution financing arrangements, • the necessity of minimum harmonised definition on covered policies and eligible claimants and policies, • the experience in information sharing between national competent authorities, • the feasibility of one single plan for conglomerates and • further harmonisation of the crisis management framework. <p>If necessary, the report should be accompanied by a legislative proposal.</p>		
--	--	--