

Framework for the recovery and resolution of insurance and reinsurance undertakings

2021/0296(COD) - 23/04/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 475 votes to 37, with 99 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of insurance and reinsurance undertakings and amending Directives 2002/47/EC, 2004/25/EC, 2009/138/EC, (EU) 2017/1132 and Regulations (EU) No 1094/2010 and (EU) No 648/2012.

As a reminder, the objective of this proposal for a directive is to harmonise the rules and procedures for the resolution of insurance and reinsurance undertakings with a view to making the insurance and reinsurance sector more resilient and strengthening the protection of policyholders, taxpayers, the economy and financial stability within the EU. The directive will introduce harmonised resolution procedures, which will facilitate the management of insurance company failures, particularly in a cross-border context.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the proposal as follows:

Pre-emptive recovery plans

Member States should ensure that insurance and reinsurance undertakings that are not part of a group subject to pre-emptive recovery planning, and that meet certain criteria, draw up and keep updated a pre-emptive recovery plan. Member States should ensure that the supervisory authority subjects insurance and reinsurance undertakings to pre-emptive recovery planning requirements on the basis of their size, business model, risk profile, interconnectedness, substitutability, their importance for the economy of the Member States in which they operate and their cross-border activities, in particular significant cross-border activities.

Supervisory authorities should ensure that at least **60%** of the Member State's life insurance and reinsurance market and at least **60%** of its non-life insurance and reinsurance market are subject to pre-emptive recovery planning requirements. Small and non-complex undertakings should not be subject to pre-emptive recovery planning requirements, except where a supervisory authority considers that such an undertaking represents a particular risk at national or regional level.

Insurance and reinsurance undertakings should update their pre-emptive recovery plans at least every two years.

Concerning **group pre-emptive recovery plans**, Member States should ensure that the group supervisor has the power to require that the ultimate parent undertaking of a group draw up and submit to the group supervisor a group pre-emptive recovery plan.

Resolution plans

The amended text stated that the resolution authorities should draw up resolution plans for insurance and reinsurance undertakings for which they assess that it is more likely, when compared to other undertakings under their remit, that resolution action would be in the public interest in the event of the failure of the undertaking concerned, or for which the authorities assess that they perform a critical function. That assessment should take into account, as a minimum, the necessity to achieve resolution objectives and the

undertaking's size, business model, risk profile, interconnectedness, substitutability and in particular its cross-border activity.

Based on the assessment, resolution authorities should ensure that at least **40%** of the Member State's life insurance and reinsurance market and **40 %** of its non-life insurance and reinsurance market, are subject to resolution planning.

Resolution

The resolution objectives are: (a) protecting the collective interest of policy holders, beneficiaries and claimants; (b) maintaining financial stability, in particular by preventing contagion and by maintaining market discipline;

(c) ensuring the continuity of critical functions; (d) protecting public funds by minimising reliance on extraordinary public financial support.

When pursuing these objectives, resolution authorities should choose those approaches in relation to critical functions that best preserve the continuity of insurance coverage for the policy holders. They should prioritise the use of financing sources other than the budget of the Member States.

In order to provide for a clear delineation of responsibilities between supervisory and resolution authorities, it should be specified that, once resolution action has been taken by the resolution authority, it is the resolution authority that becomes **ultimately responsible** for the effective implementation of such resolution action. From that moment in time, the supervisory authority should therefore refrain from adopting any measures with respect to the undertaking under resolution without the prior agreement of the resolution authority. Similarly, the resolution authority should have the power to terminate, in the context of resolution action, any measure taken by the supervisory authority in case its continuation would hinder the application of resolution tools.

European resolution colleges

Group-level resolution authorities should establish resolution colleges. Where a third-country insurance or reinsurance undertaking or third-country parent undertaking has Union subsidiary undertakings established in two or more Member States, or two or more Union branches of a third country undertaking that are regarded as significant by two or more Member States, the resolution authorities of the Member States where those Union subsidiary undertakings are established or where those Union branches of a third country undertaking are located may establish a **European resolution college**.

Financing arrangements

Each Member State should establish one or more financing arrangements to ensure that the resolution authority has at its disposal adequate funds through ex-ante or ex-post contributions or a combination thereof from insurance and reinsurance undertakings authorised in that Member State and from Union branches of third-country undertakings located in the territory of that Member State to cover at least the payment of the difference to shareholders, policy holders, beneficiaries, claimants or other creditors referred to in this Directive.

Member States may provide for the possibility to use financing arrangements also to cover other costs associated with the use of resolution tools, insofar as the use of financing arrangements is necessary for the achievement of the resolution objectives.