

Framework for the recovery and resolution of insurance and reinsurance undertakings

2021/0296(COD) - 08/01/2025 - Final act

PURPOSE: to harmonise the rules and procedures for the resolution of insurance and reinsurance undertakings.

LEGISLATIVE ACT: Directive (EU) 2025/1 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, 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.

CONTENT: this Directive amending the Solvency II Directive (the main EU legislation in the field of insurance) aims to ensure that insurers and competent authorities in the EU are better prepared to deal with situations of severe financial difficulty, so that authorities can intervene early and quickly, including on a cross-border level. The new rules will protect policyholders, while minimising the impact on the economy and the financial system, and avoiding the need to use taxpayers' money.

Designation of resolution authorities and competent ministries

For an orderly resolution process, and to avoid conflicts of interest, Member States will appoint public administrative authorities or authorities entrusted with public administrative powers to perform the functions and tasks in relation to the recovery and resolution framework. They will ensure that adequate resources are allocated to those resolution authorities. Where a Member State designates a resolution authority that has other functions, adequate structural arrangements will be put in place to separate those functions from the functions related to resolution and to ensure operational independence.

Pre-emptive recovery plans

Insurance and reinsurance undertakings that are not part of a group subject to pre-emptive recovery planning, and that meet certain criteria, will draw up and keep updated a pre-emptive recovery plan.

Supervisory authorities will:

- subject insurance and reinsurance undertakings to **requirements for pre-emptive recovery planning** 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;
- 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 will have to update their pre-emptive recovery plans at least every two years. These plans should not assume any access to or receipt of extraordinary public financial support.

Ultimate parent undertakings or individual insurance or reinsurance undertakings will therefore be required to submit their pre-emptive recovery plans to supervisory authorities for a complete assessment, including the assessment of whether those plans are comprehensive and could feasibly restore an undertaking or group's viability in a timely manner, even in periods of severe financial stress. Where an undertaking presents a pre-emptive recovery plan that is not adequate, supervisory authorities will be empowered to require that undertaking to take measures necessary to redress the material deficiencies of the plan.

Small and non-complex undertakings will not be obliged to draw up separate pre-emptive recovery plans, nor should they be subject to resolution planning, except where such an undertaking represents a particular risk at national or regional level.

Resolution plans

The resolution authorities will 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 will 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.

The resolution authorities will 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.

Resolvability

Resolution authorities will assess the extent to which insurance or reinsurance undertakings that are not part of a group are resolvable **without the assumption of any extraordinary public financial support** besides, where available and applicable, the use of insurance guarantee schemes or of any financing arrangements. An insurance or reinsurance undertaking will be deemed resolvable where it is feasible and credible for that undertaking to be wound up under normal insolvency proceedings.

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.

Member States will ensure that resolution authorities, when they apply resolution tools and exercise resolution powers, take all appropriate measures to ensure that the resolution action is taken in accordance with the following principles: (a) the **shareholders** of the undertaking under resolution bear first losses; (b) **creditors** of the undertaking under resolution bear losses after the shareholders; (c) the **administrative, management or supervisory body** and the senior management of the undertaking under resolution are replaced, except where the retention, in whole or in part, of that body or the senior management is considered necessary; (d) **natural and legal persons** are made liable under civil or criminal law for their responsibility for the failure of the undertaking under resolution.

Resolution colleges

Group-level resolution authorities will 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, 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**.

ENTRY INTO FORCE: 28.1.2025.

TRANSPOSITION: no later than 29.1.2027.