

Final - RTS specifying methodologies and principles on the valuation of liabilities arising from derivatives

Our reference:	ECO-PRU-26-162	Date:	02-03-2026
Referring to:	Consultation webpage		
Related documents:	Consultation paper		
Contact person:	Prudential team	E-mail:	
Pages:	5	Transparency Register ID	33213703459-54

General Comments

Q1. *Do you have general comments on the consultation paper?*

- Insurance Europe welcomes the opportunity to engage in discussion and provide feedback on this draft RTS, both here in writing and via the series of webinars EIOPA has hosted. We look forward to continuing to support EIOPA's work as the implementation of the IRRD progresses, with the aim of ensuring the objectives of stronger policyholder protection and enhanced financial system stability are met in a proportionate and streamlined manner for supervisors, resolution authorities and (re)insurance undertakings.
- The RTS provides important operational clarity on Article 40 IRRD and broadly supports consistency with banking resolution regimes. The objective of minimising value destruction while ensuring fair loss allocation is supported. Alignment with market practice, especially experience in the banking sector with Delegated Regulation (EU) 2016/1401 is essential.

Background and Analysis

Q2. *Do you have comments on the Background and Analysis section?*

- The background appropriately explains insurance-specific features, in particular profit participation mechanisms. The choice of a replacement cost methodology is well justified. Cross-sectoral alignment with EBA standards is welcome.

Draft Technical Standards – Recitals

Q3. Do you have comments on the Recitals?

- We recommend adding new Recitals after Recital (4):

"(X) For derivatives used as hedges, replacement trades may be concluded on an exposure based rather than contract-by-contract basis, ensuring that economically equivalent hedges can be reestablished even where market conditions require alternative instruments."

"(X) With regard to derivatives used for hedging purposes, the destruction-in-value analysis should fully account for the economic burden of re-establishing the hedge, including bid-offer spreads, liquidity premia and additional margin requirements. Resolution authorities should be granted sufficient flexibility and time to gather the necessary data in order to ensure an accurate and economically sound assessment."

- We recommend adding a new Recital after Recital (5):

"(X) Insurance and reinsurance undertakings may maintain substantial hedging portfolios that are critical to their balance-sheet stability. To avoid unnecessary destruction of value, the regulatory framework should afford resolution authorities sufficient flexibility in timing, data collection and methodological discretion when assessing closeout and replacement costs. Ensuring this flexibility is important for preserving financial stability and achieving economically accurate closeout valuations."

- We recommend rephrasing Recital (8):

*"(8) The point in time for the valuation of derivative contracts should reflect the valuation principle which takes into account the actual or the hypothetical replacement costs incurred by counterparties. In order for the valuation to be as accurate as possible, the valuation should be carried out on the closeout date or, if that would not be commercially reasonable, the first day and time on which a market price is available for the underlying asset. **[ADD] Where replacement trades reflect prudent and commercially reasonable hedge reestablishment, their prices should be given priority over model-based valuations to ensure an economically faithful closeout amount.** In those cases where the early termination amount is determined by a CCP or is determined at the price of replacement trades, the reference point in time should be that of the CCP determination or that of the replacement trades. **[ADD] For intragroup hedging arrangements, the simplified midmarket valuation should apply wherever the group resolution strategy foresees internal rehedging, reflecting that such transactions do not give rise to external market impact costs.**"*

Draft Technical Standards – Articles

Q4a. Do you have comments on Article 1 - Definitions?

- The 'valuer' (or 'independent valuer') should be defined as this function is used in Articles 4-8, and an explicit definition is also used in the corresponding Art. 1(2) Delegated Regulation (EU) 2016/1401.

- Art. 1(4): Comparing BRRD and IRRD with their respective RTS the regulation does not use a consistent terminology. The definitions 'closeout', 'close out' and 'close-out' are all used in parallel.
- Art. 1(5): We welcome the recognition that a replacement trade may re-establish hedges on a net risk exposure basis. This flexibility is essential for undertakings whose hedging strategies rely on dynamic risk management rather than contract-by-contract replication. We suggest clarifying that this exposure-based approach is intended to grant counterparties sufficient flexibility to re-establish economically equivalent hedges, even where market conditions require the use of alternative instruments.

Q4b. *Do you have comments on Article 2 - Comparison between the destruction in value that would arise from the close out and the amount of losses that would be borne by derivatives in a write-down or conversion?*

- The comparison framework is conceptually sound.
- Art. 2(1)(b): We support the explicit inclusion of re-hedging costs but propose clarifying in the Recitals that resolution authorities should have sufficient time and flexibility to assess such costs, as they can be substantial for large hedging portfolios before deciding on the closeout of hedging derivatives.
- Art. 2(2) imposes an additional analytical step for hedging derivatives, as the authority must quantify replacement-hedging costs prior to closeout. To avoid unintended destruction of value, we recommend explicitly recognising the need for sufficient time and data to perform this pre-closeout assessment of the total expected re-hedging costs adequately:
- **Art. 2(2) - modified:** *"The comparison under paragraph 1 shall be made before a decision to close out is taken, as part of the valuation to inform decisions about resolution actions required under Article 23 of Directive (EU) 2025/1 [ADD] and, in particular for replacement trades, only after the resolution authority has completed its assessment of expected re-hedging costs and their potential impact on value destruction."*

Q4c. *Do you have comments on Article 3 - Communication of the decision to closeout?*

- The ability of counterparties to submit replacement trades—particularly those restoring hedges—is fundamental for achieving a fair closeout amount. Thus, clear communication requirements enhance legal certainty for counterparties. However, tight timelines may be difficult to meet in stressed scenarios. Flexibility in deadlines is essential.
- If counterparties do not evidence commercially reasonable replacement trades in time, the valuer constructs the closeout using mid-prices and bid-offer spreads. Thus, with regard to Article 3(3) we recommend that the Recitals emphasise the need for sufficiently long and operationally practical deadlines to allow counterparties to conclude and evidence commercially reasonable replacement trades in fast moving markets.
- Alternatively, to addressing this in the Recitals Article 3(3) shall be amended as follows: Art. 3(3) – modified: *"In the decision referred to in paragraph 1, the resolution authority shall specify a date and time, taking account of the requirements in Article 8(1), point (c), by which counterparties may provide evidence to the resolution authority of commercially reasonable replacement trades for the purpose of determining the closeout amount pursuant to Article 6(1). [ADD] In particular for hedging transactions, date and time shall not prevent the counterparty from executing replacement trades reflecting prevailing market conditions. The counterparty shall also provide to the resolution authority a summary of any commercially reasonable replacement trades."*

Q4d. *Do you have comments on Article 4 - Role of netting agreement?*

- Respecting netting agreements is consistent with market practice. The single net amount approach enhances legal certainty.

Q4e. *Do you have comments on Article 5 - Valuation principle for early termination amount?*

- The early termination valuation principle reflects standard closeout mechanics. Reliance on replacement cost is appropriate. In any case, the contractually agreed rules on close-out netting should take precedence. Further, data availability may be constrained. Valuers should retain discretion in stressed markets.

Q4f. *Do you have comments on Article 6 - Determination of the closeout amount?*

- Art. 6(1) appropriately differentiates between derivatives for which replacement trades exist—often hedges—and those valued on model-based prices. Given the critical role of hedges for insurers' risk management, we recommend that Recital (8) explicitly states that, where replacement trades reflect prudent and commercially reasonable hedge re-establishment, such trades should be given priority over model-based valuations to ensure an economically faithful closeout amount (see proposed wording above in Q3).
- Art. 6(3): We welcome the simplified mid-market valuation for intra group hedging structures. To support operational continuity and group wide hedging strategies, we propose clarifying in Recital (8) that this simplified approach may be applied wherever the group resolution strategy foresees internal re hedging, irrespective of the specific instruments used (see proposed wording above in Q3).
- The hierarchy of valuation inputs is robust but data-intensive. Counterparty-provided information may not always be available or reliable. Mid-market approaches may require adjustment in illiquid markets.

Q4g. *Do you have comments on Article 7 - Valuation of cleared derivative contracts entered into between an undertaking under resolution and a CCP?*

- The tailored treatment of CCP-cleared derivatives appropriately recognises CCP default procedures. Cooperation between resolution authorities and CCPs is critical. The fallback mechanism is necessary but should remain exceptional.

Q4h. *Do you have comments on Article 8 - Point in time for establishing the value of derivative liabilities and early determination?*

- Allowing early provisional valuation supports resolution timeliness. However, valuation uncertainty may be significant. Clear guidance on updates is welcome. Provisional valuations should not become de facto final.

Annex I: Impact Assessment

Q5. *Do you have comments on Policy Issue A: Whether to follow the approach of EBA taking into account the insurance specificities or to develop a completely new approach?*

- Following the EBA approach while reflecting insurance specificities is strongly supported. A separate insurance-only methodology would create unnecessary divergence. Cross-sector consistency reduces operational burden.

Q6. *Are there any elements in the proposed RTS which could be modified to reduce the administrative burden or improve the (cost) efficiency of the requirements? If so, please provide a (monetary) assessment of the expected efficiency brought by the proposed change.*

- Safe-harbour assumptions in stressed markets could improve efficiency. Streamlined documentation requirements would lower costs.

Any other comments

Q7. *Do you have any other comments?*