

Final - RTS on the independence of valuers for resolution under Article 24(6) of the IRRD

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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 objective of ensuring independent and credible valuations is fully supported. We fully support EIOPA's aims to ensure a level playing field across financial sectors for the independence of valuers for resolution purposes, while having regard to any specificities for the resolution of (re)insurance entities. However, the standards go beyond Level 1 by detailing multiple layers of independence criteria. Care must be taken that availability of valuers is preserved.

Background and Analysis

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

- The background correctly recognises the need for independence while ensuring timely appointment of valuers. The cross-sectoral comparison with BRRD and CCPR is appropriate. Market capacity constraints should remain a key consideration.

Draft Technical Standards – Recitals

Q3. *Do you have comments on the Recitals?*

- The Recitals imply a high level of scrutiny that may not always be feasible in practice. Outcome-based independence should be prioritised.

Draft Technical Standards – Articles

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

Q4b. *Do you have comments on Article 2 - Elements of independence?*

- The cumulative independence conditions are conceptually sound, but their combined application may be restrictive in smaller markets. Authorities should retain discretion in assessing materiality. A holistic assessment is preferable to a checklist approach.

Q4c. *Do you have comments on Article 3 - Qualifications, experience, ability, knowledge and resources?*

- The principle-based reference to qualifications and experience is appropriate. Avoiding prescriptive accreditation requirements is strongly supported. In view of the draft RTS—and in particular paragraph 4 of Article 3—it must be noted that the text does not in any way take into account that the independent valuer will, in practice, be dependent on the entity under valuation to the extent that the entity must provide essential input data (e.g., investment portfolios, insurance contract portfolios, claims data etc.). Furthermore, due to time constraints, it is to be expected that the independent valuer will, at least in part, need to rely on the entity's own valuation methodologies. This is especially relevant for the valuation of life insurance contracts with discretionary profit participation and related reinsurance, which typically require stochastic valuation approaches.
- In most cases, the product variants in this line of business are so entity specific that a short notice valuation by an external independent party would be associated with considerable inaccuracies. It should therefore be possible for the independent valuer to make use of partial valuations commissioned by the entity itself, provided that appropriate accompanying measures are implemented to safeguard independence.

Q4d. *Do you have comments on Article 4 - Structural, legal and operational separation?*

- Structural separation requirements strengthen independence safeguards. However, strict separation rules may limit the pool of available experts. Functional separation should be acceptable where risks are mitigated.

Q4e. *Do you have comments on Article 5 - Material common or conflicting interests?*

- The conflict-of-interest framework is robust and consistent with other resolution regimes. The one-year audit look-back period for statutory audit and audit of the SFCR strikes a reasonable balance.
- Given that paragraph 5 of Article 5 excludes the current statutory auditor from acting as an independent valuer, it should be noted that statutory auditors are already subject to stringent independence requirements and, at the same time, typically possess a deep understanding of the undertaking to be valued. From a timing perspective, it may therefore be advantageous to mandate the statutory auditor to perform an independent valuation. We therefore propose introducing an exception for situations in which time constraints are critical, allowing the statutory auditor to be appointed as the independent valuer, if there is no indication of any misconduct by the auditor in the context of the entity's most recent audits.

Q4f. *Do you have comments on Article 6 - Entry into force?*

Annex I: Impact Assessment

Q5. *Do you have comments on Policy Issue A: Whether to specify in detail the necessary qualifications, experience, ability and knowledge to ensure independence?*

- The preferred option to avoid detailed qualification requirements is supported. A principle-based standard best balances independence and availability.

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.*

Any other comments

Q7. *Do you have any other comments?*