Insurance Europe response to EIOPA IRRD consultation on RTS on the content of (group) pre-emptive recovery plans

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General comments

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

Insurance Europe welcomes the opportunity to provide feedback on the consultation on the Regulatory Technical Standards (RTS) on the content of pre-emptive recovery plans. The industry has a number of strong reservations about the proposals outlined in the draft RTS which predominantly relate to the excessive and duplicative requirements. These are outlined in our response below.

The industry stands ready to provide further feedback and suggestions on how the pre-emptive recovery plans could be designed to ensure the requirements are proportionate to the potential benefits that may be achieved through pre-emptive recovery planning.

Extensive requirements

The proposed **required content of the pre-emptive plan is extensive and will create substantial workload for undertakings**, both initially and when the plan is updated. This goes against the Commission's simplification agenda to reduce operational and reporting burdens on firms. The information requested includes information that National Supervisory Authorities (NSAs) already have from their on-going supervision of insurance undertakings and groups. The principle of proportionality is hardly considered, and **the minimum content of the plan should be significantly reduced.** For example, some sections could be updated less frequently than the full plan, and certain analyses could be performed ad hoc if the supervisory authority raises specific concerns.

Critical functions not required in recovery plans

The Level 1 text of the Insurance Recovery and Resolution Directive (**IRRD) does not require the inclusion of critical functions in the pre-emptive recovery plan**. Industry therefore sees no need/justification for their inclusion in the draft RTS or in the pre-emptive recovery plan, particularly as this information is already provided to supervisory authorities by the resolution authority, who are responsible for the identification of critical functions, through the resolution plan under Article 9(7) IRRD.

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Language of the recovery plans
It should be clarified that the recovery plan of groups with cross-border business **could be drafted in English or in the common language of the group – depending on the choice of the group.**

Solo vs group-level clarity and avoiding duplication
Across several provisions, the draft RTS appear to introduce extensive new documentation and assessment requirements without always distinguishing between group-level and solo-level obligations or recognising the availability of equivalent information under existing Solvency II reporting. Industry strongly recommends that **the final RTS explicitly promote consistency with Solvency II disclosures, apply proportionality in line with the Directive, and avoid duplication in both solo and group contexts**.

Consistency with international standards
It is important to note that the **RTS appears significantly more prescriptive than international standards such as the IAIS Application Paper on Recovery Planning**, which advocates a more proportionate and flexible approach. Aligning the RTS more closely with these global standards would help avoid excessive administrative burdens and promote a level playing field.

Timing of first pre-emptive recovery plans
Given how extensive the proposed pre-emptive recovery plan, **the first pre-emptive recovery plans should be prepared in 2029 at the earliest**. In practice, this would mean by mid-2029 at the earliest, given existing reporting requirements in the first half of each year. Supervisory expectations on the first version of the plan should reflect that the development of the pre-emptive recovery plan will be an iterative process, and that this is expected to be fine-tuned over a period of years.

Insurance group issues
For bank-insurance groups which are already subject to Bank Recovery and Resolution Directive (BRRD), **IRRD planning should apply only to the highest insurance legal entity within the insurance group**. To avoid double reporting and planning, EIOPA is reminded of the EC goal to reduce reporting burdens by 25%.

It should be recognised that, currently, there is no specific and coherent regulatory framework governing financial conglomerates. The application of IRRD in such conglomerates—especially those already under the BRRD regime—could result in inconsistencies or conflicts, due to the overlapping scope and differing sectoral logics of the two directives.

Furthermore, it is recommended that entities within the group to be taken into account as part of the pre-emptive recovery planning should be based on a **materiality threshold**, identifying only those insurance entities that are substantively significant within the group.

Given the complexity of such structures, the industry also supports a **case-by-case supervisory assessment** by EIOPA and National Resolution Authorities (NRAs) to determine the most appropriate and proportionate application of IRRD, ensuring consistency with existing frameworks and proportionality to the risk profile of the entities involved. This is also intended to simplify matters when the insurance group is part of a conglomerate, and the latter already has governance measures in place as a result of the activities carried out on the BRRD side. Similarly, simplifications are required in the application of the IRRD to implement a single plan for the group/parent insurance company.

Other issues
The impact assessment contains no quantitative cost assessment. Without understanding the impact of regulations, it is very difficult to successfully reduce their burden, in line with the Commission's simplification agenda to reduce operational and reporting burdens on firms. Earlier performed cost assessments are not relevant, as the required content is far more extensive than considered in those earlier assessments.

In general, the RTS should refer to "parents" rather than "ultimate parents" as entities that are not subject to the SII framework as stated in the Level 1 text should not be in scope of Level 2 and 3.

Background and Analysis

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

It is important that any requirements of IRRD, including this RTS do not inadvertently hinder well-established and effective risk management practices—such as diversification—or introduce disproportionate burdens that could affect the competitiveness of EU insurers.

The assertion that crisis prevention and preparation is more efficient and less costly than crisis management should be carefully qualified. **Solvency II remains the global gold standard of insurance prudential supervision and provides a robust framework for early risk detection and mitigation**. Any new requirements should therefore be **very carefully assessed in light of their added value beyond SII**. Also while crisis prevention and preparation can be beneficial at the level of individual companies, it may lead to significant costs and administrative complexity **at industry level if the measures are not implemented proportionately**.

It is clearly stated that the goal of a pre-emptive recovery plan: "[…] *is not to forecast the factors that could prompt a crisis but rather to identify the actions that might be available to counter both an idiosyncratic and a system-wide crisis […]".* **The industry would expect this statement around the emphasis on recovery options to be reflected in the upcoming Guidelines on the scenarios and the indicators**.

Draft Technical Standards - Recitals

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

The RTS requests the documentation of any recovery plan that has been implemented in the last 10 years, including an evaluation of the measures taken. **Industry proposes reducing the history of the recovery plan required**, for reasons of relevance and cost. For example, reference could be made to Article 8 (Past breach of the Solvency Capital Requirement). As such history would take the form of an obligation to include information about breaches of the Solvency Capital Requirement in the last 10 years, as well as the measures taken by the group to restore compliance.

Recital 1 refers to a summary of the preventive recovery plan in an international language, a priori for all stakeholders while in Article 2, the summary is only to be produced in an international language by entities fulfilling certain criteria. **Industry suggests the synthesis should be in either English or the language of insurance company operations for cross-border undertakings and the language of insurance company operations for those in a single Member State** so that they are able to quickly understand the key elements of the preventive recovery plan and make decisions in crisis situations without language barriers.

Draft Technical Standards - Articles

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

Industry would welcome definitions being provided for "Governance Structure" and "Stakeholders".

Q4b. *Do you have comments on Article 2 - Summary of the key elements of the pre-emptive recovery plan or group pre-emptive recovery plan?*

The summary of the report should not include every item referred in points (b) to (g) of Article 5(6) of Directive (EU) 2025/1. Supervisors are expected to read the whole document. Undertakings/groups should have flexibility to decide on the most relevant information of the plan to be highlighted in the summary. If EIOPA wants to prescribe the content of the summary, it should be limited to the most relevant items of Article 5(6) (for example, a summary of indicators and remedial actions).

It should be clarified in Article 2(2) that the summary of the plan can be in English or in the common language of the group **– depending on the choice of the group**. It is also important to point out that according to Directive (EU) 2025/1 this summary shall not be disclosed to the general public, but it is only for NSAs and NRAs.

Industry would **welcome greater clarity on the criteria for significant cross-border activities** and how consistency with Solvency II will be ensured.

Q4c. *Do you have comments on Article 3 - Description of the insurance or reinsurance undertaking or the group?*

Most of the information required under this article is available in SFCR (Solvency and Financial Condition Report), RSR (Regular Supervisory Report) reports, QRTs (Quantitative Reporting Templates) and the ORSA (Own Risk and Solvency Assessment) report. While this is mentioned in Recital 1, i**t should be explicitly mentioned in the article that undertakings or groups can refer to these documents** to cover the requirements under this article, or alternatively the description of the insurance or reinsurance undertaking or group should be reduced as much as possible.

Industry sees no reason why critical functions must be addressed in the recovery plan. This is not mentioned in the IRRD for recovery plans, nor does it seem necessary, as supervisory authorities will receive the critical functions information through the resolution plan under Article 9(7) IRRD.

In addition, undertakings will not necessarily know whether and which activities are classified as critical functions by the resolution authority when preparing the recovery plan. If the assessment of critical functions in the resolution plan were to change, this would require constant updates to the recovery plan, creating unnecessary administrative burden. It is also unclear how firms outside the scope of resolution planning will have their identifications reviewed.

Therefore, the industry suggests deleting the references to critical functions in Article 3(1)(a) and (b) of the draft RTS.

Article 3(1)(c): Information on intra-group transactions (IGT) and inter-connectedness is already captured in detail in Solvency II reporting templates, 36.01 (IGT Equity-type transactions, debt and asset transfer), 36.02 (derivatives), 36.03 (off balance sheet and contingent liabilities), 36.04 (IGT insurance and reinsurance), 36.05 (P&L, including intra-group outsourcing or cost sharing) and should not be duplicated.

Article 3(1)(c) and 3.2 are unclear about what information should be provided in an entity level plan and what should be provided in a group plan, in particular in situations where both a group and (an) entity level plan(s) are required. This is not the regular situation foreseen by IRRD, but might still occur, for example in situations where the group plan was drawn up by an ultimate parent undertaking outside the EU. In that case, the undertaking drawing up an entity-level plan should not be required to provide group information. Further guidance on information sharing and co-ordination between NSAs in such cases would also be useful.

Overall, it may be useful to consider splitting this Article into two, covering solo and group undertakings, to avoid confusion.

Article 3(1)(d): Information from Solvency II reporting already includes extensive details on external transactions and should not be duplicated. **In Article 3(2) a new definition of "legal entities" is introduced. It is unclear why this is necessary** and what are the consequences for those that have been classified as "legal entities". Similarly, the **treatment of non-Solvency II legal entities is not entirely clear** in the RTS. Paragraph 2 should be amended such that the scope of reporting is aligned with Solvency II IGT reporting and other reporting. Otherwise, inconsistent and unduly burdensome frameworks are created.

Q4d. *Do you have comments on Article 4 - Framework of indicators?*

Article 4 mentions quantitative and qualitative indicators to be defined, as well as associated thresholds. It is important that these indicators are determined based on the undertaking's specific risk management framework. Other than the legally defined SCR and MCR, **no mandatory set of indicators or minimum number should be prescribed**. The concept of qualitative indicators could be clarified by giving examples.

Article 4 also mentions the need to define indicators at both parent company and subsidiary level. The **obligation to define indicators at subsidiary level should be applied in a proportionate manner** as indicated. For a recovery plan at group level, it is not appropriate to require indicators (triggers) at the level of individual subsidiary undertakings, and this requirement should be deleted. If an indicator is triggered at subsidiary level and this is material for the group, it will automatically result in a trigger at group level. In situations where both a group and (an) entity level plan(s) are required, the **group plan should not be required to include the triggers at the level of the individual subsidiary** undertakings. Moreover, placing stronger emphasis for some entities in the group plan would challenge the principle of equal treatment across subsidiaries that some insurers aim to maintain.

According to Article 5(11) of Directive (EU) 2025/1, EIOPA will issue guidelines on indicators and scenarios, but this is not referred to in the RTS. In order to remove any potential conflicts or overlaps with the guidelines, it is suggested that **Article 4 should be shortened and be less prescriptive**, e.g. by deleting Article 4(2)–4(3). If these are retained, a detailed description of the consistency of the indicators with the general risk management framework of the undertaking/group seems unnecessary. A brief description (if any) would suffice. An explanation of the rationale for choosing the specific indicators and triggers may also be unnecessary. In most cases, the rationale would be quite evident. The NSAs would always be able to request explanations where needed and to challenge the indicators and triggers identified in the plan.

Early warning indicators (EWIs) play a key role in triggering escalation processes when an insurer enters a risk recovery zone and should therefore be included in the pre-emptive recovery plan. However, to avoid duplication and unnecessary burden, undertakings should be allowed to reference EWIs if already defined in their Risk Management Framework.
Article 4(5): Whether indicators provide 'enough time' depends highly on the stress situation itself. **Scenario analysis is the only meaningful way to understand potential speed of deterioration**, thereby assisting in evaluating whether triggers and actions are calibrated to be 'early enough'.

Q4e. *Do you have comments on Article 5 - Description of how the pre-emptive recovery plan or group pre-emptive recovery plan has been drawn-up, how it will be updated and how it will be applied?*

The description of how the plan was drawn up should be simpler, confirming administrative, management or supervisory body (AMSB) approval and the involvement of other relevant functions. There is no need for information about the role and persons responsible for preparing, implementing and updating each section of the plan as well as overall responsibility for the plan.

The reference to external auditors should be removed, since external auditing of plans is not foreseen in Directive (EU) 2025/1. This item should focus on the process to ensure timely implementation of remedial actions.

Article 5(1)(c)(i) requires updating the pre-emptive recovery plan at least every 2 years. The 2-year-interval should be the regular case, and a shorter interval should only be specified **in exceptional cases**. If a shorter interval is specified in exceptional cases, regular updates should be omitted as the time required to review by the NSAs (nine months according to Article 6(1) IRRD) and to provide a new plan is longer anyway.

Q4f. *Do you have comments on Article 6 - Range of remedial actions?*

The assessment of whether remedial actions are credible/feasible/effective needs to be proportionate in light of the information available in the pre-recovery situation.

In line with Article 5(6)(e) of the IRRD, the recovery plan should contain a range of remedial actions but not require an excessive assessment of the feasibility of each individual action. **While the industry fully supports the need for a high-level assessment of credibility, feasibility, and effectiveness—consistent with sound risk management**— the industry considers that the level of detail required in Article 6(3)(c) and (d) is too extensive. Against this background, the industry proposes to delete the sub-items under these paragraphs.

In any case, **analysis should be prioritised on the measures that would be implemented under the stress scenarios** studied in the credibility and feasibility analysis referred to in Article 5(7) of Directive (EU) 2025/1.

Furthermore**, the assessment of the valuation of the business lines or portfolio to be divested**, which is a measure to be included in the preventive recovery plan, **is a complex and costly process requiring specialised resources**. Valuation estimates can be particularly volatile and dependent on market conditions. In addition, cession decisions are often driven by strategic and contextual considerations that go beyond simple valuation figures. In 3(c)(iii) the wording in bold should be added "**an overview of** the valuation assumptions and all other assumptions made for the purpose of the assessments in points (i) and (ii) if different".

As already mentioned above (see comment on Q4c), industry sees no reason why critical functions should be addressed in the recovery plan. This is not required under the IRRD for recovery plans and does not appear necessary, as supervisory authorities will receive the relevant information through the pre-emptive resolution plan under Article 9(7) IRRD. Therefore, the reference to critical functions in Article 6(3)(c)(ii) should be deleted.

In light of Article 6(3)b), it could be expected that the Guidelines on the indicators reflect the focus on the Capital and Liquidity items. Creating additional expectations on items such as profitability in the Level 2 could create inconsistencies with expectations set in the above-mentioned article.

Q4g. *Do you have comments on Article 7 - Communication strategy?*

The text of this Article should emphasise that the plan should not be so specific or tailored as to impede its utility for all potential recovery situations and action combinations. The requirements regarding differentiation by scenarios appear overly extensive and go beyond what is required under Article 5(6) of the IRRD.

More generally, the industry questions how a tailored communication strategy can reasonably be expected to form part of a pre-emptive recovery plan.

Q4h. *Do you have comments on Article 8 - Past breach of the Solvency Capital Requirement?*

Any recovery plan submitted in the past in accordance with Article 138(2) of Solvency II should be properly recorded at the NSA. Therefore, there is no need to replicate it here.

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