RAB response to the Government of Ireland's public consultation on the transposition of the IRRD

Our reference:	RAB-25-029	Date:	05-09-2025
Referring to:	Public Consultation on the transposition of the (EU) Insurance Recovery and Resolution Directive		
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Pages:	3	Transparency Register ID no.:	341051518380-63

Observations subject matter and scope

Insurance Europe's Reinsurance Advisory Board (RAB) strongly agrees with the minister's view that Ireland should not adopt or maintain rules that are stricter to those laid down in the Insurance Recovery and Resolution Directive (IRRD) and the delegated and implementing acts adopted on the basis of the IRRD.

As noted in the public consultation, the IRRD sets out that a minimum of 60% of a Member State's life and non-life (re)insurance market must keep updated pre-emptive recovery plans and share them with national supervisor. The in-force Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Recovery Plan Requirements for Insurers) Regulations 2021 requires all in-scope (re)insurance firms to prepare and submit pre-emptive recovery plans and will need to be reviewed as part of the transposition process.

We also highlight that recital 26 of the Directive states that the drawing up of individual pre-emptive recovery and resolution plans for undertakings that are a part of a group should remain exceptional and that Article 5 of the Directive requires mandatory inclusion of solo undertakings, who are not part of a group subject to pre-emptive recovery planning to be in scope.

On this basis, and in line with the stated preference of the minister that Ireland should not adopt or maintain rules that are stricter than those laid out in the directive, we encourage that any steps taken in respect of scope must remove subsidiaries of Groups, who themselves are subject to pre-emptive recovery planning, from the scope of pre-emptive recovery and resolution planning and such firms should only be included on a justifiable basis.

We also counsel that the transposition of the requirements of the IRRD in other member states should be countenanced prior to national implementing measures being taken. The minimum harmonising nature of the directive, allied with the multiple member state discretions and the different use of insurance guarantee schemes throughout the EEA may lead to unintended consequences for the industry in Ireland.

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reinsurance advisory board

3.8.1 Observations on financing arrangements

While Article 81 of the IRRD mandates Member States to establish financing arrangements, it is essential to underscore that the scope of these arrangements is narrowly defined by Article 55. Specifically, the financing arrangement is intended solely in the Directive to compensate creditors in cases where the application of a resolution tool results in a worse financial outcome than would have occurred under normal insolvency proceedings.

4.2 Ex-Ante vs. Ex-Post Contribution Requirement

The limited scope of the financing arrangement, where the resolution authority is only required to act under the Directive if a creditor is left with a worse outcome than under a liquidation scenario, makes the likelihood of the resolution fund being needed extremely remote. Therefore, an ex-post contribution model is much more appropriate.

Utilisation of an ex-post models will also obviate the risk of decisions being made in respect of the funding of an ex-ante model placing disproportionate cost on the Irish (re)insurance sector versus other models being employed in other member states or indeed anywhere else in the world. For example, it is reminded that the resolution regime in Singapore is based on ex-post financing arrangements.

Furthermore, (re)insurers are not exposed to the risk of run, unlike banks. This means there is no imperative for emergency facilities to be drawn from an ex-ante funding.

However, the RAB welcomes the Minister's view that a specific cap to the market contribution to the Financing Arrangement should be determined to enhance the predictability of the mechanism. For instance, the 150 million euros contemplated in the Consultation Document should be considered a cap to ex-post funding that can be recovered from the Financing Arrangement under any one resolution event.

4.5.1 Observations on the scope of the financial contribution

Reinsurers do not serve retail customers and do not pose the same risks to consumer protection or financial stability as primary insurers.[1] Their failure is unlikely to trigger systemic consequences that would justify resolution intervention. Including reinsurers in resolution funding arrangements misaligns with the IRRD's stated objective of safeguarding policyholders, and hence the real economy and maintaining financial stability.

Resolution funding is a priced mechanism. Requiring reinsurers to contribute would result in inappropriate cross-subsidisation – from Irish retail policyholders to the reinsurers' corporate clients which are oftentimes established overseas – as they would be funding tools designed to protect policyholders—despite not having direct exposure to them. This creates a misalignment between risk and cost, undermining the principle of proportionality.

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[1] See Annex 4 Systemic risks of reinsurers of ESRB Report on systemic risk in the EU insurance sector/December 205

Ireland hosts a significant number of reinsurance operations, including branches of third-country reinsurers. Subjecting Irish-based reinsurers to ex-ante resolution funding—while exempting third-country branches—would create a competitive imbalance. This could discourage firms from establishing or maintaining operations in Ireland, weakening its position as a global reinsurance hub.

We urge the Department to explicitly exclude reinsurers from the scope of any ex-ante resolution funding arrangements under the IRRD. This exclusion would ensure that the funding mechanism remains targeted, proportionate, and aligned with the public interest objectives of resolution policy.