

CONSULTATION  
PAPER

## CONSULTATION PAPER

on the proposal for Guidelines on further details on the measures to remove impediments to resolvability and the circumstances in which each measure may be applied

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**eiopa**

European Insurance and  
Occupational Pensions Authority

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## RESPONDING TO THIS PAPER

EIOPA welcomes comments on the Consultation Paper on the proposal for Guidelines on further details on the measures to remove impediments to resolvability and the circumstances in which each measure may be applied.

Comments are most helpful if they:

- ▶ respond to the question stated, where applicable;
- ▶ contain a clear rationale; and
- ▶ describe any alternatives EIOPA should consider.

Please send your comments to EIOPA via EU Survey ([link](#)) by 31 July 2025, 23:59 CET.

Contributions not provided via EU Survey or after the deadline will not be processed. In case you have any questions please contact [IRRD\\_PC@eiopa.europa.eu](mailto:IRRD_PC@eiopa.europa.eu).

### Publication of responses

Your responses will be published on the EIOPA website unless: you request to treat them confidential, or they are unlawful, or they would infringe the rights of any third-party. Please, indicate clearly and prominently in your submission any part you do not wish to be publicly disclosed. EIOPA may also publish a summary of the survey input received on its website.

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### Declaration by the contributor

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### Data protection

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<sup>1</sup> [Public Access to Documents](#)

## CONSULTATION PAPER OVERVIEW AND NEXT STEPS

EIOPA carries out consultations in the case of Guidelines and Recommendations in accordance to Article 16 (2) of the EIOPA Regulation.

This Consultation Paper presents the draft Guidelines, explanatory text and a technical annex where relevant.

The analysis of the expected impact from the proposed policy is covered under Annex I (Impact Assessment).

### Next steps

EIOPA will revise the proposal in view of the stakeholder comments received. EIOPA will publish a report on the consultation including the revised proposal and the resolution of stakeholder comments.

# 1. GUIDELINES

## INTRODUCTION

- 1.1 In accordance with Article 16 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (EIOPA Regulation)<sup>2</sup> and with Article 15(8) of Directive (EU) 2025/1 of the European Parliament and of the Council of 27 November 2024 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 (IRRDR)<sup>3</sup>, EIOPA issues these Guidelines to specify further details on the alternative measures and the circumstances in which each measure may be applied.
- 1.2 These Guidelines are addressed to resolution authorities as defined in Article 2(12) of Directive (EU) 2025/1.
- 1.3 If not defined in these Guidelines, the terms have the meaning defined in the legal acts referred to in the introduction.
- 1.4 For the purposes of these Guidelines, the following definitions have been developed:
- a) 'resolution strategy' means a set of actions, including at least the application of one or more resolution tools or the exercise of one or more resolution powers, provided for in a resolution plan;
  - b) 'preferred resolution strategy' means a resolution strategy or a group resolution strategy that is presumed to be best in achieving the resolution objectives set out in Article 18 of Directive (EU) 2025/1 under a specific resolution scenario, considering the structure and the business model of the insurance or reinsurance undertaking or group, and the resolution regimes applicable to legal entities in a group;
  - c) 'alternative resolution strategy' means a resolution strategy or a group resolution strategy that is intended to be implemented in a specific resolution scenario when it is not credible or feasible to implement the preferred resolution strategy or strategies identified in the resolution plan or group resolution plan for that scenario. It is considered to address circumstances in which the preferred resolution strategy or strategies cannot be implemented;
  - d) 'relevant services' means:
    - i. services, including reinsurance services, necessary for the continuity of a critical function or a core business line, if (i) their disruption has material

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<sup>2</sup> OJ L 331, 15.12.2010, p. 48–83.

<sup>3</sup> OJ L, 2025/1, 8.1.2025.

- impact on the insurance and reinsurance undertaking's or group's ability to continue to provide critical functions or core business lines and (ii) they cannot be provided by another provider within a reasonable timeframe to a comparable extent as regards object, quality and cost, or
- ii. any other services needed to ensure undisturbed functioning of the insurance or reinsurance undertaking or group during resolution, including those provided by essential service providers;
  - e) 'group resolution strategy' means a set of actions, including at least the application of one or more resolution tools or the exercise of one or more resolution powers, provided for in a group resolution plan to be implemented by the group-level resolution authority and resolution authorities of subsidiaries to execute in a coordinated manner the resolution of the group.
- 1.5 It is essential to apply the alternative measures in a proportionate manner, trying to minimize, to the extent possible, the interference with the insurance or reinsurance undertaking's or group's legal structure and financial or operational strategy.
- 1.6 For any measures imposed on the insurance or reinsurance undertaking, the resolution authority should duly consider in advance the potential effect of such measure on the soundness and stability of that particular insurance or reinsurance undertaking's ongoing business and on the internal market.
- 1.7 The alternative measures may be applied if they are suitable, necessary and proportionate to address or remove the substantive impediments to the effective implementation of a preferred resolution strategy (and alternative resolution strategy, if applicable), including substantive impediments to winding-up, where an insurance or reinsurance undertaking is likely to be wound up under insolvency proceedings in the event of its failure.
- 1.8 An alternative measure should be considered suitable if it is able to promote a material reduction or removal of the substantive impediment concerned in a timely manner.
- 1.9 An alternative measure should be considered necessary to address or remove an impediment to resolvability, if less disruptive measures which are able to achieve the same objective to the same extent cannot be identified. The disruptiveness of the measure should be assessed inter alia by costs and negative effects on the insurance or reinsurance undertaking.
- 1.10 An alternative measure should be considered proportionate if the overall potential benefits of resolving the insurance or reinsurance undertaking and of meeting the resolution objectives outweigh the overall potential costs and potential negative impact of addressing or removing the substantive impediments to resolvability.
- 1.11 The structure of these Guidelines follows the list of alternative measures provided in Article

15(5) of Directive (EU) 2025/1.

### **Guideline 1 – Alternative resolution strategies**

- 1.12 Any alternative measures, as listed in Article 15(5) of Directive (EU) 2025/1, taken by resolution authorities should aim in the first place to address or remove substantive impediments to resolution with respect to the preferred resolution strategy or strategies. Where relevant, the resolution authority or group resolution authority may also apply measures to address substantive impediments to the application of alternative resolution strategy or strategies, for which the same guidelines apply. Any alternative measures necessary to address or remove substantive impediments to the alternative resolution strategy or strategies should only be applied if they do not impair the feasible and credible implementation of the preferred resolution strategy or strategies.

### **Guideline 2 – Details and circumstances with respect to the power to require the insurance or reinsurance undertaking to revise any intra-group financing agreements or review the absence thereof, or draw up service agreements, whether intragroup or with third parties [Art. 15(5)(a) of Directive (EU) 2025/1]**

- 1.13 Resolution authorities should consider requiring an insurance or reinsurance undertaking to revise existing group financing agreements or to review the absence thereof. In particular, this should be done if the provision of financial support or its form (or the absence of this type of agreement) makes it substantially more difficult for resolution authorities to achieve the resolution objectives by applying the preferred resolution strategy, inter alia:
- a) the lack of sufficient mechanisms that allow for losses to be absorbed by (or “up-streamed” to) the relevant parent undertaking, ultimate parent undertaking or insurance holding company (not undermining the solvency of any entity in the group);
  - b) a too complicated operational structure of the group;
  - c) lack or insufficient set-off or netting mechanisms (of mutual liabilities and receivables);
  - or
  - d) the structure of financing not allowing to absorb losses in accordance with the general principles governing resolution.
- 1.14 Resolution authorities should consider requiring an insurance or reinsurance undertaking to draw up written service level agreements or transitional support agreements<sup>4</sup>, or take other appropriate measures to ensure the continuity of the relevant services or to achieve any of the resolution objectives. This measure may be applied in particular in cases where:
- e) no written service level agreements or transitional support agreements exist;

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<sup>4</sup> A transitional support agreement should be understood as an agreement between buyer and seller companies (or divested entities) in which one entity provides services and support (i.e., IT, finance, HR, real estate, payroll, etc.) to another after the closure of a divestiture to ensure business continuity.

- f) the level of documentation of service level agreements or transitional support agreements is insufficient or;
  - g) where the service level agreements or transitional support agreements can be terminated by the counterparty due to resolution action being taken by the resolution authority.
- 1.15 Resolution authorities should consider applying this alternative measure if legal entities from the group are not able to be operationally independent. Especially, resolution authorities should consider this alternative measure where it is necessary to ensure the possibility to implement the preferred resolution strategy envisaging a break-up or restructuring of the group, including through the application of a (partial) transfer tool, applying a sale of business, bridge undertaking, and asset and liability separation tool).
- 1.16 When applying this alternative measure, resolution authorities should aim at ensuring that these intragroup financing agreements or service agreements are accessible and enforceable within a short timeframe from the application of the resolution measure. If the relevant preferred resolution strategy envisages the use of a (partial) transfer tool, resolution authorities should consider requiring the agreements to be transferable to entities resulting from resolution action or to recognise the legal effects of statutory transfers. This could include, e.g. requiring the insurance or reinsurance undertaking to include in the arrangements appropriate clauses ensuring that the agreements are not terminated at the entry into resolution.

**Guideline 3 – Details and circumstances with respect to the power to require the insurance or reinsurance undertaking to limit its maximum individual and aggregate exposures [Art. 15(5)(b) of Directive (EU) 2025/1]**

- 1.17 Where necessary to support a preferred resolution strategy involving a separation of legal entities from the group, resolution authorities should consider requiring the insurance or reinsurance undertaking to limit intra-group exposures to contain internal financial interconnectedness between group entities (or groups of such entities, further called as ‘subgroups’). This should be applied when these entities are expected to be resolved separately under the preferred resolution strategy of the group and if this intra-group exposure impairs the group’s or insurance or reinsurance undertaking’s resolvability. The same may apply in relation to a ring-fenced entity, if pursuant to legislative requirements or supervisory decisions a separation of certain activities is required to ensure the credibility and feasibility of the application of resolution tools and the exercise of resolution powers to the ring-fenced entity or the remaining parts within the group.
- 1.18 Resolution authorities should consider requiring an insurance or reinsurance undertaking to limit individual or aggregate exposures where such exposures create financial or operational interdependencies, limiting the possibility to apply the preferred resolution strategy.



- 1.19 Resolution authorities should consider requiring an insurance or reinsurance undertaking to limit exposures to special purpose entities connected to the insurance or reinsurance undertakings through significant undrawn commitments (such as loans and credit lines), material guarantees or letters of comfort.

**Guideline 4 – Details and circumstances with respect to the power to impose specific or regular additional information requirements relevant for resolution purposes [Art. 15(5)(c) of Directive (EU) 2025/1]**

- 1.20 Resolution authorities should consider imposing additional information requirements when the insurance or reinsurance undertaking is not able to provide up-to-date information required within the timeframe necessary under the preferred resolution strategy, or when the insurance or reinsurance undertaking's information systems are not able to provide all data needed to develop and implement the preferred resolution strategy, and to support a credible valuation required for resolution, including those required by Articles 23 and 56 of Directive (EU) 2025/1. The power should be applied in particular when the available information related to the following areas is insufficient:
- a) the critical functions or core business lines and the way these are maintained;
  - b) the creditors or types of creditors most likely to absorb losses during resolution;
  - c) the liabilities of particular relevance for the continuity of critical functions or core business lines (such as, where relevant, claims covered by an insurance guarantee scheme) or the achievement of any other resolution objectives;
  - d) the technical provisions;
  - e) the policyholders, beneficiaries or injured parties potentially affected by the write-down or conversion;
  - f) the staff, services and functions essential for the risk management of the undertaking which have to be maintained to achieve any of the resolution objectives (in particular ensuring the continuation of critical functions), or to sustain core business lines.

**Guideline 5 – Details and circumstances with respect to the power to require the insurance or reinsurance undertaking to divest specific assets or to restructure liabilities [Art. 15(5)(d) of Directive (EU) 2025/1]**

- 1.21 Resolution authorities should consider requiring an insurance or reinsurance undertaking to (gradually) divest specific type of assets (such as those that are illiquid or not commonly traded) held in its portfolio prior to resolution, if, as concluded by the resolution authority in its assessment of resolvability of the insurance or reinsurance undertaking, the sale of these assets in resolution would significantly impede the effective application of resolution tools. The assets to be divested should be those, the sale of which during resolution is likely to result in an increased pressure on asset prices, additional uncertainty or vulnerability on financial markets or among other insurance or reinsurance undertakings and, ultimately, result in higher risk to policyholders, claimants and beneficiaries.

- 1.22 In addition, resolution authorities should consider applying this alternative measure if the existing asset structure is likely to have adverse effects on the feasibility or credibility of the preferred resolution strategy, undermining the achievement of the resolution objectives. Where the preferred resolution strategy relies on a liquidation of assets to generate liquidity, resolution authorities should consider requiring an insurance or reinsurance undertaking to divest assets, which are likely to be illiquid under stressed conditions or at the point of resolution, to increase the proportion of assets which are expected to be more liquid instead. This measure should also be considered in relation to assets which significantly impair the feasibility of the valuation (e.g. due to their specific nature and need specific approach to their evaluation), required under Article 23 of Directive (EU) 2025/1. Resolution authorities should also consider the risk that assets or funding sources might be ring-fenced in third countries.

Resolution authorities should consider the time needed for the divestment and the impact of the divestment on the market for the assets concerned, also as a result of divestments required from other insurance or reinsurance undertakings. Resolution authorities should also consider the impact of the divestment on the profit participation of policy holders and, where relevant, the impact of any matching adjustments.

- 1.23 Resolution authorities should consider requiring insurance or reinsurance undertakings to restructure liabilities<sup>5</sup> when, after assessing the preferred resolution strategy, the resolution authority concludes that there is an insufficient loss absorbing capacity at the level of the undertaking or parent undertaking (e.g. due to regulatory ring-fencing, asset encumbrance or market-related developments) or there are factors limiting the utilization of the existing loss absorption capacity (e.g. the structure of the investors, creditors or policyholders, beneficiaries or injured parties) or the type and degree of guarantees in certain parts of the insurance portfolio. If necessary for the effective implementation of a preferred resolution strategy in the context of a group, group-level resolution authorities should also consider requiring the parent undertaking to restructure liabilities when they identify that any legal, regulatory, accounting or tax requirements prohibit the parent undertaking from assuming losses of operating subsidiaries or, down-streaming resources (generated through the write-down or conversion at parent undertaking level) to such subsidiaries.
- 1.24 Resolution authorities should consider requiring an insurance or reinsurance undertakings to reduce the complexity and size of financial positions or commitments, if this is necessary to lower the level of complexity of the insurance or reinsurance undertaking or group necessary to allow for the application of the resolution tools or the exercise of the resolution powers. In particular, resolution authorities should consider requiring an insurance or reinsurance undertaking to reduce the complexity with regard to large portfolios of derivatives and other financial contracts, to avoid untransparent and inaccessible structures, to avoid the complexity

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<sup>5</sup> Restructuring the liabilities is not limited to its full write-down or conversion.

or volatility of measurement and valuation of the products and portfolios and to avoid their internal interconnectedness.

- 1.25 If necessary for the effective implementation of a preferred resolution strategy the context of a group, the group-level resolution authorities should consider requiring that the funding of subsidiaries by the ultimate parent undertaking is adequately subordinated. Group-level resolution authorities should also consider requiring that the funding arrangements between subsidiaries and the ultimate parent undertaking or between any other group entities is not subject to set-off arrangement or provides for appropriate arrangements for losses to be transferred to the legal entity to which resolution tools or resolution powers would be applied from other group entities, in a way that allows the relevant operating group entities to remain viable without endangering the compliance with prudential requirements of the insurance or reinsurance undertaking. Group-level resolution authorities should consider structuring the funding in such a way that the group or the part of the group that perform critical functions is not split up following a write-down and conversion of a considerable portion of the instruments that are subject to write-down and conversion powers. Where the preferred resolution strategy in the context of a group depends on a re-allocation of capital and liquidity within the group, group-level resolution authorities should consider requiring capital and liquidity to be located in jurisdictions where this re-allocation is allowed under local regulatory limits. Also, the re-allocation should not negatively impact the situation of the policyholders.

**Guideline 6 – Details and circumstances with respect to the power to require the insurance or reinsurance undertaking to limit or cease specific existing or proposed activities [Art. 15(5)(e) of Directive (EU) 2025/1]**

- 1.26 Resolution authorities should consider requiring an insurance or reinsurance undertaking to limit complex activities related to how business operations are provided to other entities. This should also include how these operations are included in the financial statements (accounting and prudential), how they are funded and considered in the undertaking's risk management framework. Also, the requirement to limit complex activities may refer to the position of business operations within the group and their geographical location, if such activities undermine the feasibility or credibility of the preferred resolution strategy.
- 1.27 Resolution authorities should consider requiring an insurance or reinsurance undertakings to limit providing relevant services to other insurance or reinsurance undertakings or other financial market participants if, based on an overall assessment of the insurance or reinsurance undertaking's functions, the resolution authority assesses that the services could not be continued in resolution and their discontinuance could threaten the stability of the recipients of these services.
- 1.28 Where pursuant to legal requirements or supervisory decisions a transfer of specific activities into a separate entity is required, resolution authorities should consider preventing this entity from performing additional activities, if this is necessary to ensure the credibility and

feasibility of the application of resolution tools or the exercise of resolution powers following the transfer.

**Guideline 7 – Details and circumstances with respect to the power to restrict or prevent the development of new or existing business lines or sale of new or existing products [Art. 15(5)(f) of Directive (EU) 2025/1]**

- 1.29 Resolution authorities should consider applying restrictions to the development of new or existing business lines or the sale of new or existing products by the insurance or reinsurance undertaking or group are structured in a way that impairs the application of resolution tools or the exercise of resolution powers, or with the purpose to circumvent their application.
- 1.30 Resolution authorities should consider restricting or preventing the development of new or existing business lines or the sale of new or existing products governed by a third country law or financial instruments issued from entities in a foreign jurisdiction (in particular third country branches or special purpose entities), if such a sale may impede the application of resolution, especially in terms of the timing, or the scope of affected parties. This may include situations where the third country law does not recognise the application of resolution tools or the exercise of resolution powers envisaged by the preferred resolution strategy or does not make them effectively enforceable, or if the development of these business lines and the sale of these products is likely to have significant adverse effects on the application or implementation of resolution powers.
- 1.31 Resolution authorities should consider requiring an insurance or reinsurance undertaking to restrict the development of new or existing business lines or sale of new or existing products if, as a result of the complexity of these business lines or products, the assessment of liabilities and non-financial obligations of the insurance or reinsurance undertaking by the resolution authority is impaired or the valuation pursuant to Article 23 of Directive (EU) 2025/1 is significantly impeded.

**Guideline 8 – Details and circumstances with respect to the power to require the insurance or reinsurance undertaking to change the reinsurance strategy [Art. 15(5)(g) of Directive (EU) 2025/1]**

- 1.32 Resolution authorities should consider, without prejudice to the specific requirements included in paragraph 1.33 and 1.34, any risks related to the reinsurance strategy that the insurance or reinsurance undertaking has in place.
- 1.33 Resolution authorities should consider requiring the insurance or reinsurance undertaking to change its reinsurance strategy if the current strategy negatively affects the feasibility and credibility of the preferred resolution strategy. This might be considered, in particular, when the following situations occur: a change in the circumstances and environment of the insurance or reinsurance business (e.g. macroeconomics slowdown, pandemic, outburst of war), low credibility of the current reinsurer (e.g. when the counterparty to reinsurance

contracts is engaged in doubtful transactions or money laundering or when its financial position changes significantly etc.), an absence of resolution-proof clauses, a change of the reinsurance undertaking's financial standing assessment (e.g. rating downgrade) or a use of reinsurance contracts to transfer the assets outside the undertaking (thereby undermining the loss absorption and recapitalization capacity).

- 1.34 When considering whether the reinsurance strategy of an insurance or reinsurance undertaking needs to be changed, the resolution authority should in particular pay attention to:
- a) Legal and financial risks deriving from the reinsurance strategy's contracts;
  - b) Operational risks deriving from the reinsurance strategy, such as a significant level of dependence on risk-management expertise provided by the reinsurance undertaking from which the insurance or reinsurance undertaking has bought its reinsurance policy.

**Guideline 9 – Details and circumstances with respect to the power to require changes to legal or operational structures of the insurance or reinsurance undertaking or any group entity, either directly or indirectly under its control, so as to reduce complexity to ensure that critical functions may be legally and operationally separated from other functions through the application of the resolution tools [Art. 15(5)(h) of Directive (EU) 2025/1]**

- 1.35 The requirement to change the structures of the insurance or reinsurance undertaking should be considered if the resolution authority assesses that the legal or operational structures of the insurance or reinsurance undertaking or any group entity as being too complex or too interconnected (including a too high level of staff-sharing between entities) to be able to maintain the continuity of access to critical functions in resolution, or to be dismantled under a preferred resolution strategy, including strategy envisaging a break-up of the group or a liquidation or transfer of certain assets or liabilities. This may especially include a situation in which local group operations are critically dependent on essential services as well as risk management or hedging services from other group entities.
- 1.36 If necessary for the effective implementation of a preferred resolution strategy of a group and to ensure that certain subgroups or legal entities are separable, resolution authorities should consider requiring insurance or reinsurance undertakings or any group entity to restructure legal entities along geographical or business lines. In particular, this should apply to centralised hedging and risk management, trading, liquidity management and collateral management or other key finance functions, unless these functions can be replaced in a timely manner by market transactions with third parties. In accordance with the preferred resolution strategy, resolution authorities should prevent extensive use of hedging contracts among entities within the group and other transactions or purchase of financial instruments resulting in the creation of intra-group dependencies potentially influencing the use of resolution tools or resolution powers. This is to ensure that legal entities that are to be resolved separately have a sufficient level of standalone accounting and risk management.

- 1.37 Where pursuant to legislative requirements or supervisory decisions a structural separation of certain activities is required, resolution authorities should consider requiring the inclusion of additional activities in the separation, if necessary to ensure the credibility and feasibility of the application of resolution tools or the exercise of resolution powers in each part of the group following the separation.
- 1.38 If resolution authorities consider that the structure of an insurance or reinsurance undertaking or a group limits the possibility to apply the preferred resolution strategy, it should require the undertaking or any group entity to restructure itself so that the subsidiaries which are material to the continuity of critical functions are located within the EU's internal market or third country jurisdictions through and in which the impediments are removed.
- 1.39 If the preferred resolution strategy provides for a split of an insurance or reinsurance undertaking or of a group or a change of ownership by sale or transfer, resolution authorities should consider requiring the insurance or reinsurance undertaking or any group entity to structure critical functions and relevant services, in a way that facilitates their continuity. If necessary to make a preferred resolution strategy credible and feasible, resolution authorities should consider requiring an insurance or reinsurance undertaking or any group entity to change its operational structure to reduce or prevent the dependency of material entities or core business lines in each subgroup on relevant services from other subgroups. This should include management information systems. It should be ensured that adequate governance and control arrangements are in place and the necessary financial resources are available so that providers of relevant services can continue to provide their services.
- 1.40 When it is necessary to ensure the provision of relevant services following resolution, resolution authorities should consider requiring an insurance or reinsurance undertaking to move these services into separate operational subsidiaries. When applying this measure, resolution authorities should consider requiring the operational subsidiaries:
- a) to limit their activities to the provision of these services and to apply appropriate restrictions regarding risks and activities;
  - b) to be adequately capitalised to meet their operational costs for an appropriate timeframe;
  - c) to meet the requirements applicable to an outsourcing of the functions concerned;
  - d) to provide their services under intra-group service level agreements that are robust under resolution.

The terms of these agreements, the governance arrangements of these subsidiaries and their ownership structure should be appropriate to ensure the continuance of these services following resolution.

- 1.41 Resolution authorities should consider requiring an insurance or reinsurance undertaking to take precautions to meet, in a resolution situation, the specific requirements of any financial markets infrastructure (FMI) in which it participates. Where necessary, resolution authorities

should consider requiring an insurance or reinsurance undertaking to make reasonable efforts to re-negotiate contracts with FMIs, subject to safeguards to protect the sound risk management and safe and orderly operations of the FMI.

- 1.42 Resolution authorities should consider requiring an insurance or reinsurance undertakings or any group entity to avoid critical dependencies of the insurance or reinsurance undertaking, the group or any subgroup on the provision of services under third country contracts that permit termination upon resolution. A dependency should be deemed critical when it negatively affects resolvability of the insurance or reinsurance undertaking.
- 1.43 If a preferred resolution strategy for a group includes a winding down of any entities that are not providing any of the identified critical functions or core business lines, resolution authorities should consider requiring an insurance or reinsurance undertakings to ensure the separability of these business lines, within or outside the existing structure, including the marketability of certain operations in case the preferred resolution strategy requires their sale. If necessary to ensure separability, resolution authorities should consider requiring an insurance or reinsurance undertakings to change their structure in third countries from branches to subsidiaries, or to internally segregate all or certain functions and business lines in these branches to prepare a carve-out of these functions and facilitate the transfer to a separate entity.
- 1.44 Resolution authorities should consider requiring an insurance or reinsurance undertaking to take reasonable precautionary measures to ensure the availability of key staff by retaining or substituting them, where this is necessary to implement the preferred resolution strategy, also with a view to the replacement of the management body and senior management of the insurance or reinsurance undertaking under resolution required by Article 22(1)(c) of Directive (EU) 2025/1.
- 1.45 Resolution authorities should consider requiring an insurance or reinsurance undertakings to ensure the continuity of management information systems. Resolution authorities should consider requiring that the insurance or reinsurance undertaking's information systems and data availability ensure that resolution authorities are able to obtain the information and data needed to implement the preferred resolution strategy and carry out valuations before and during resolution. In particular, resolution authorities should consider requiring an insurance or reinsurance undertaking to ensure the operability of the use of the write-down and conversion powers by making the identification of liabilities, stays on payments and the technical implementation of the write-down and conversion feasible.
- 1.46 Where a significant branch of a third-country insurance or reinsurance undertaking located in the Union performs critical functions or core business lines of which the continuity is not adequately ensured in the resolution plan of the third-country insurance or reinsurance undertaking, or from which a significant risk of contagion is derived, resolution authorities should consider requiring the third-country insurance or reinsurance undertaking to set up a

subsidiary or to capture this under the requirement for the parent insurance holding company in a Member State or a Union parent insurance holding company pursuant to the first point of this Guideline.

**Guideline 10 – Details and circumstances with respect to the power to require the insurance or reinsurance undertaking or a parent undertaking to set up a parent insurance holding company in a Member State or a Union parent insurance holding company [Art. 15(5)(i) of Directive (EU) 2025/1]**

- 1.47 Resolution authorities should consider requiring to set up a parent insurance holding company in a Member State or a Union parent insurance holding company, if they assess that it is not feasible or credible to resolve the part located in the Union of an insurance or reinsurance undertaking or group located in a third country, because there is no parent undertaking subject to the law of an EU jurisdiction or an equivalent jurisdiction. In particular, resolution authorities should consider requiring an insurance or reinsurance undertaking or a parent undertaking to set up a parent insurance holding company in a Member State or a Union parent insurance holding company, if the issuance of debt at this level is necessary to provide for an adequate amount and proper allocation of liabilities expected to contribute to loss absorption and recapitalisation, to facilitate the absorption of losses at the level of the operating subsidiaries and to ensure the fungibility of liabilities expected to contribute to loss absorption and recapitalisation within the part of the group located in the Union.
- 1.48 In addition, this measure should be considered where, for a feasible and credible implementation of the preferred resolution strategy, it is required to apply the resolution tools or exercise the resolution powers at the level of the holding company rather than at the level of the operating entities, also with regard to potential exclusions from the write-down or conversion tool. Resolution authorities should consider applying this measure together with restrictions on the operational activities of the parent insurance holding company in a Member State or a Union parent insurance holding company, if the operational activities at that level substantially impede the feasibility or credibility of the implementation of the preferred resolution strategy. In particular, resolution authorities should consider setting appropriate limitations to prevent the parent insurance holding company in a Member State or a Union parent insurance holding company from performing critical functions or core business lines. Where necessary, the parent insurance holding company in a Member State or a Union parent insurance holding company's financing sources should include only equity and liabilities that are expected to be written down or converted.



**Guideline 11 – Details and circumstances with respect to the power to require that the mixed-activity insurance holding company sets up a separate insurance holding company to control the insurance or reinsurance undertaking, where necessary to facilitate the resolution of the insurance or reinsurance undertaking and to avoid that the application of resolution tools and the exercise of resolution powers has an adverse effect on the non-financial part of the group, where the insurance or reinsurance undertaking is the subsidiary undertaking of a mixed-activity insurance holding company [Art. 15(5)(j) of Directive (EU) 2025/1]**

- 1.49 If resolving the insurance part of a mixed-activity insurance holding company enhances the feasibility and credibility of the preferred resolution strategy, resolution authorities should consider requiring the mixed-activity insurance holding company to set up a separate insurance holding company, taking into account the risk of contagion between different segments of the financial sector and the wider economy.

**COMPLIANCE AND REPORTING RULES**

- 1.50 This document contains Guidelines issued under Article 16 of the EIOPA Regulation. In accordance with Article 16(3) of the EIOPA Regulation, Resolution Authorities shall make every effort to comply with guidelines and recommendations.
- 1.51 Resolution authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or resolution framework in an appropriate manner.
- 1.52 Resolution authorities shall confirm to EIOPA whether they comply or intend to comply with these Guidelines, with reasons for non-compliance, within two months after the issuance of the translated versions.
- 1.53 In the absence of a response by this deadline, resolution authorities will be considered as non-compliant to the reporting and reported as such.

## ANNEX I: IMPACT ASSESSMENT

### OBJECTIVES

In accordance with Article 29 of the EIOPA Regulation, EIOPA carries out, where relevant, analyses of costs and benefits during the policy development process. The analysis of costs and benefits is undertaken according to an impact assessment methodology.

The starting point for this impact assessment is that existing provisions following from the level 1 text are already in place and that the other provisions included in this consultation paper will be implemented as proposed. As a result, this assessment only considers the additional impact of each specific policy issue under discussion.

This impact assessment covers the approach to the description of details for the application of the measures to address or remove the impediments to resolvability (policy issue A). It is based on a qualitative assessment done by EIOPA.

In drafting these Guidelines, EIOPA sticks to the general objectives of Directive (EU) 2025/1. These general objectives are to enable the authorities to:

- Enhance preparation, coordination and cooperation
- Meeting the resolution objectives
- Proper functioning of the internal market and ensuring level-playing field

In view of the specific purpose of these guidelines, the following more specific objectives were identified, for resolution authorities to ensure:

- an effective and efficient policyholder protection in resolution and/or liquidation with a sufficient level of flexibility for resolution authorities allowing for a level of adjustment of the measures to address and remove the impediments to resolvability to the specificity of the national markets;
- a level playing field through common minimum harmonization rules with regard to the framework of addressing and removing impediments to resolvability, which will ensure minimum harmonization across the EU.

### POLICY ISSUES

#### POLICY ISSUE A: APPROACH TO THE DESCRIPTION OF DETAILS FOR THE APPLICATION OF THE MEASURES TO ADDRESS OR REMOVE THE IMPEDIMENTS TO RESOLVABILITY

Article 15(8) of Directive (EU) 2025/1 requires EIOPA to issue guidelines to specify further details on the measures provided for in Article 15(5) of Directive (EU) 2025/1 and the circumstances in which each measure may be applied. In this regard it is possible to create general requirements with details that should be universally applicable whenever any measure from Article 15(5) of Directive (EU) 2025/1

is applied. Another approach would be to include for each alternative measure listed in Directive (EU) 2025/1 further details specific to the nature of that measure.

## POLICY OPTIONS

### POLICY ISSUE A: APPROACH TO THE DESCRIPTION OF DETAILS FOR THE APPLICATION OF THE MEASURES TO ADDRESS OR REMOVE THE IMPEDIMENTS TO RESOLVABILITY

#### Policy option A.1: General description applicable to all alternative measures

This approach assumes a set of general rules, recommendations and factors that should be considered by the resolution authorities when applying measures to address or remove impediments to resolvability. It leaves a high degree of flexibility for additional requirements for individual alternative measures to decide on by the national resolution authorities. However, it could also result in a more fragmented way of applying the measures across Member States, as the general provisions might not be sufficiently detailed for authorities, who still can decide on specifications for the individual alternative measures. This is also an approach that is reflective of the fact that the framework for recovery and resolution of insurers is still in its early stages, which means taking time to learn lessons, before developing prescriptive provisions, could be considered to be a pragmatic approach.

#### Policy option A.2: Dedicated description for every alternative measure

This approach assumes that specific rules for the application of every measure to address or remove impediments to resolvability are created. It would provide more guidance for authorities specific to the nature of the alternative measure and limit a difference in interpretation of how every alternative measure needs to be applied, thereby enhancing consistency. As it creates a higher level of harmonization across Member States, it is more limited in the flexibility for national resolution authorities to develop their own framework. This approach is more strictly following the mandate provided by Directive (EU) 2025/1, as the alternative measures are referenced specifically in the mandate. Nevertheless, this approach should not necessarily need to be overly detailed, in order to retain a level of flexibility within every alternative measure.

## IMPACT OF THE POLICY OPTIONS

### POLICY ISSUE A: APPROACH TO THE DESCRIPTION OF DETAILS FOR THE APPLICATION OF MEASURES TO ADDRESS OR REMOVE IMPEDIMENTS TO RESOLVABILITY

Policy option A.1: general description applicable to all measures		
Costs	Policyholders	Potentially more limited level of resolvability, which may lead to higher losses in resolution.

	Industry	No impact
	Resolution authorities	Too general character of guidelines that might lead to doubts about how to interpret and apply them. This may also result in additional resource needs for resolution authorities required for the development of additional nationally specific rules, which might be needed for a useful and effective application of the measures.
	Other	No impact
<b>Benefits</b>	Policyholders	No impact
	Industry	Increased consistency between the application of all measures.
	Resolution authorities	Higher flexibility to work out further requirements adjusted to national specifics.
	Other	No impact

Policy option A.2: dedicated description for every measure		
<b>Costs</b>	Policyholders	Potentially higher price of policies and premiums, due to stricter application of alternative measures .
	Industry	No impact
	Resolution authorities	Limited flexibility.
	Other	No impact
<b>Benefits</b>	Policyholders	Higher level of protection, through better resolution preparedness, by stricter application of provisions to improve resolvability.
	Industry	Level playing field between Member States and clear expectations in terms of application of measures.
	Resolution authorities	Increased clarity and consistency across resolution authorities and supervisors.
	Other	Higher degree of resolvability, due to potential stricter application of measures, limiting the risk to financial stability.

## COMPARISON OF POLICY OPTIONS

POLICY ISSUE A: APPROACH TO THE DESCRIPTION OF DETAILS FOR THE APPLICATION OF MEASURES TO ADDRESS OR REMOVE THE IMPEDIMENTS TO RESOLVABILITY

EFFECTIVENESS		
	Framework ensuring minimum harmonization	Flexibility for resolution authorities and potential for consideration of national specificities
Policy option A.1	+	++
Policy option A.2	++	+

EFFICIENCY		
	Framework ensuring minimum harmonization	Flexibility for resolution authorities and potential for consideration of national specificities
Policy option A.1	+	++
Policy option A.2	++	+

**PREFERRED OPTION**

Based on the impact assessment, it was decided to create dedicated descriptions for every measure. A general description applicable to all measures would provide a significant level of flexibility for resolution authorities, but at the same time would address the specifics of particular measures to a lower extent, resulting in a more limited direct applicability. Additionally, dedicated descriptions for every measure, although they might be more prescriptive, can be applied in a proportionate and rationalized way nonetheless. Dedicated descriptions also increase the level of harmonization across Member States, as the the room to develop national practices is slightly more limited.

Moreover, the impact assessment shows that the dedicated descriptions for every alternative measure are associated with more benefits and at the same time similar costs in comparison to the policy option of a general description. Therefore, it was decided to structure the guidelines using dedicated descriptions for every listed alternative measure.

## OVERVIEW OF QUESTIONS FOR CONSULTATION

The questions are set out in an EU-Survey ([link](#)).

## Privacy statement related to Public (online) Consultations

### ▶ Introduction

1. The European Insurance and Occupational Pension authority (EIOPA) is committed to protecting individuals' personal data in accordance with Regulation (EU) 2018/1725<sup>6</sup> (further referred as "the Regulation").
2. In line with article 15 and 16 of the Regulation, this privacy statement provides information to the data subjects relating to the processing of their personal data carried out by EIOPA.

### ▶ Purpose of the processing of personal data

3. Personal data is collected and processed to manage online public consultations EIOPA launches, and to conduct online surveys, including via online platform EUSurvey<sup>7</sup>, and to facilitate further communication with participating stakeholders (e.g., when clarifications are needed on the information supplied or for the purposes of follow-up discussions that the participating stakeholders may agree to in the context of the consultations or surveys).
4. The data will not be used for any purposes other than the performance of the activities specified above. Otherwise you will be informed accordingly.

### ▶ Legal basis of the processing of personal data and/or contractual or other obligation imposing it

5. The legal basis for this processing operation are the following :
  - Regulation (EU) 1094/2010, and notably Articles 8, 10, 15, 16, 16a and 29 thereof
  - EIOPA's Public Statement on Public Consultations
  - EIOPA's Handbook on Public Consultations
6. In addition, in accordance with Article 5(1)(a) of the Regulation, processing is lawful as it is necessary for the performance of a task carried out in the public interest.

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<sup>6</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39–98.

<sup>7</sup> For more information on the processing of personal data in EUSurvey, please see the [dedicated privacy statement](#).

### ▶ **Controller of the personal data processing**

7. The controller responsible for processing the data is EIOPA's Executive Director.

8. Address and email address of the controller:

Westhafen Tower, Westhafenplatz 1

60327 Frankfurt am Main

Germany

[fausto.parente@eiopa.europa.eu](mailto:fausto.parente@eiopa.europa.eu)

### ▶ **Contact detail of EIOPA's Data Protection Officer (DPO)**

9. Westhafenplatz 1, 60327 Frankfurt am Main, Germany

[dpo@eiopa.europa.eu](mailto:dpo@eiopa.europa.eu)

### ▶ **Types of personal data collected**

10. The following personal data might be processed:

- Contact details (name, email address, phone number).
- Employment details (company and job title).

### ▶ **Recipients/processors of the personal data collected**

11. Data will be collected and disclosed to the relevant staff members part of the Department/Unit in charge of the consultation/surveys and also to other EIOPA's staff on a need-to-know basis (e.g IT staff, security officer).

### ▶ **Retention period**

12. Personal data collected are kept by until the finalisation of the project the public consultation or the survey relate to.

13. The personal data collected in EUSurvey are deleted from EUSurvey as soon as the period to provide answers elapsed.

### ▶ **Transfer of personal data to a third country or international organisations**

14. No personal data will be transferred to a third country or international organisation. The service provider is located in the European Union.

### ▶ **Automated decision-making**



15. No automated decision-making including profiling is performed in the context of this processing operation.

▶ **What are the rights of the data subject?**

16. Data subjects have the right to access their personal data, receive a copy of them in a structured and machine-readable format or have them directly transmitted to another controller, as well as request their rectification or update in case they are not accurate. Data subjects also have the right to request the erasure of their personal data, as well as object to or obtain the restriction of their processing.

17. Where processing is based solely on the consent, data subjects have the right to withdraw their consent to the processing of their personal data at any time.

18. Restrictions of certain rights of the data subject may apply, in accordance with Article 25 of Regulation (EU) 2018/1725.

19. For the protection of the data subjects' privacy and security, every reasonable step shall be taken to ensure that their identity is verified before granting access, or rectification, or deletion.

20. Should the data subjects wish to exercise any of the rights provided in paragraphs 16 and 17 above, please contact EIOPA's DPO ([dpo@eiopa.europa.eu](mailto:dpo@eiopa.europa.eu)).

▶ **Who to contact if the data subjects have any questions or complaints regarding data protection?**

21. Any questions or complaints concerning the processing of the personal data can be addressed to EIOPA's Data Controller ([fausto.parente@eiopa.europa.eu](mailto:fausto.parente@eiopa.europa.eu)) or EIOPA's DPO ([dpo@eiopa.europa.eu](mailto:dpo@eiopa.europa.eu)).

22. Alternatively, the data subjects can have recourse to the **European Data Protection Supervisor** ([www.edps.europa.eu](http://www.edps.europa.eu)) at any time, **as provided in Article 63 of the Regulation.**