

ANNEX: Simplification and burden reduction while developing a new framework: the case of IRRD

EIOPA fully supports the European Commission's objective of simplifying EU-regulation and significantly reducing the administrative burden on businesses. At the same time, the IRRD mandates the EIOPA to develop a series of guidelines and technical standards, of which most will have an impact on undertakings and national competent authorities (NCAs). In order to strike a balance between the objective of burden reduction and the need to develop sound instruments, EIOPA has made an effort to keep the burden on both NCAs and undertakings, where possible, to a minimum. A full list of examples of burden reduction or simplification of regulation for each instrument can be seen in the table below.

Furthermore, where possible, the approach adopted draws on existing regulatory practices, enabling undertakings to leverage their existing experience and expertise in financial regulation, and promoting a level playing field across the financial sector. Generally, EIOPA has sought to minimize the new information and level of details to be collected by fostering the use of existing information and avoiding unnecessary requests.

Examples of burden reduction or simplification of regulation in the instrument currently under development

Preliminary remark: the examples are classified according to whether the simplification and burden reduction affects undertakings (**a**) and/or authorities (**b**)

Instrument	Burden reduction and simplification of regulation
Final report on the Draft Regulatory Technical Standards (RTS) on the content of (group) pre-emptive recovery plans	<ul style="list-style-type: none"> - Streamlined credibility and feasibility assessment^{a,b}: There is no requirement to include a comprehensive credibility and feasibility assessment of the plan. Instead, only the outcome of that assessment need to be presented. The assessment of the credibility and feasibility will be conducted at the plan level, rather than on each remedial action. - Focused description of group structure and internal connections^{a,b}: When describing the structure of the group and internal connections, it is allowed to limit the description to particularly important aspects, where appropriate. - Tiered information requirements^{a,b}: The RTS differentiates between the levels of granularity required for various types of information (e.g., general description, detailed description), enabling a focused and efficient disclosure of relevant information. - Flexibility in indicators in the case of subsidiaries^{a,b}: Undertakings have the flexibility, subject to supervisory authorities' review, to determine which indicators related to subsidiaries are incorporated into the group pre-emptive recovery plan, taking into consideration that the extent should be proportionate to their relevance to the group, policyholders, real economy and the financial system. - Cross-references^{a,b}: The draft RTS envisage the possibility of supervisory authorities to accept cross-references to other documents previously submitted to the supervisor, thereby reducing the administrative burden for undertakings.

	<ul style="list-style-type: none"> Critical functions^a: The exclusion of critical function requirements from the draft RTS has led to a reduction in the burden for entities.
Final report on the Draft Regulatory Technical Standards on criteria for pre-emptive recovery planning requirements and methods to be used when determining the market shares	<ul style="list-style-type: none"> Use already existing information^{a,b}: The RTS requires supervisory authority to use data from regular supervisory reporting (Article 35, Article 244, Article 245 and Article 254 of the Solvency II Directive) for assessing the insurance or reinsurance undertakings or groups and calculating the market share. They should also consider, where available, the own risk and solvency assessment (ORSA), (Articles 45 and 246 of the Solvency II Directive) and the liquidity risk management plans (Article 144a of the Solvency II Directive). This approach limits additional data requests to the maximum extent possible. Methodology for the combination of the criteria not prescribed in the RTS^b: The IRRD requires that all the criteria are considered when assessing which insurance or reinsurance undertaking or group is subject to pre-emptive recovery planning. The RTS does not add additional burden by giving the NCAs the flexibility to combine the criteria, whilst still considering all of them as required by the IRRD, which enables the use of already existing methodologies.
Final report on the Draft Regulatory Technical Standards on the content of resolution plans and group resolution plans	<ul style="list-style-type: none"> Tiered information requirements^{a,b}: The RTS differentiates between the levels of granularity required for various types of information (e.g., only a summary vs detailed description), thereby avoiding the burden of providing excessive detail when it is not essential. However, the Level 1 text provides detailed guidance on the elements that must be included in resolution plans, leaving limited flexibility in delivering on this empowerment. Structured rather than detailed approach^{a,b}: The RTS is structured in an accessible and comprehensive manner, following a general and proportionate structure with categories of information necessary to be included in a resolution plan (limited to elements already included in the Art. 9 of IRRD), with only a limited level of detail in the description of the elements, leaving the detailed implementation of the requirements to the resolution authorities in compliance with the general proportionality principle and without prejudice to the possibility of applying simplified obligations where the relevant conditions are met. Flexible applicability of provisions on group resolution plans^b: The article on the content of group resolution plans is drafted in a way that allows resolution authorities to apply the provisions on a range of business models to enhance the level of flexibility and limit the prescriptiveness of the provisions.
Final report on the Guidelines on the criteria for the identification of critical functions	<ul style="list-style-type: none"> Alignment with the work of international bodies on critical functions (e.g. IAIS and FSB), if and where relevant^{a,b}: the work of the relevant international bodies was considered in the developing phase of these Guidelines, in order to ensure consistent approach and to promote common understanding of the key concepts and principles employed in the identification of critical functions. “Partial stop” of a function included as an option when defining the assumptions^{a,b}: the option of a partial inability to provide a function (partial stop) is added as an additional assumption when identifying critical functions. If NRAs assume a complete stop, the impact will be higher, and more critical functions will be identified than where assuming a partial stop. The assumption of a partial stop may better reflect economic and legal reality, as in practice there might be ways to partially continue the function.

	<ul style="list-style-type: none"> - Trade-off between “reasonable costs” and “reasonable time” in assessing substitutability^{a,b}: when assessing whether a substitution is possible, the possibility to consider a trade-off between cost and timeframe is allowed. - Reflecting national specific features and leaving flexibility to NRAs by^{a,b}: <ul style="list-style-type: none"> o Taking into account the concept of regionality in the assessment of critical functions and o Using indicator-based approach instead of hard thresholds in the assessment of concepts such as ‘impact on social welfare’ or ‘a large number of policyholders’.
Final report on the Guidelines on the assessment of resolvability	<ul style="list-style-type: none"> - Limited detail of provisions^{a,b}: Compared to the criteria used in the banking sector, the assessment criteria are less detailed. The IRRD framework is still in its early stages and some requirements might be too advanced to already include in these Guidelines, as some initial experience could be gained to further regulate these matters. However, as the IRRD prescribes the resolvability dimensions to be assessed in the Annex, EIOPA has limited flexibility to the minimum content requirements of these Guidelines. - Degree of assessment adjusted to type of resolution strategy^{a,b}: A full resolvability assessment is necessary only for preferred resolution strategies, while for any alternative resolution strategies, the resolution authorities retain flexibility on the degree of assessment. - (Un)reasonable timeframes^{a,b}: After the public consultation all elements including a requirement for the undertaking to deliver something ‘at short notice’ or ‘overnight’, have been replaced by ‘within a reasonable timeframe,’ as it fits better the different scenarios of insurance failure, including both slow as fast-paced failures. - Streamlined Guidelines^{a,b}: After the public consultation, some Guidelines have been streamlined, by removing elements deemed to overlap with others, especially with regard to FMIs, Separability and Operational continuity.
Final report on the Guidelines on measures to remove impediments to resolvability and the circumstances in which each measure may be applied	<ul style="list-style-type: none"> - Minimum requirements approach^{a,b}: The Guidelines are limited to the alternative measures as listed in Art. 15(5)IRRD, including a limited degree of details and circumstances, to allow resolution authorities a degree of flexibility in the application of the measures, which fits the context dependent character of these guidelines. - Proportionality vis-à-vis preferred resolution strategy^{a,b}: 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. - Embedded proportionality in resolvability framework^{a,b}: The measures can only be applied when an impediment to applying the resolution strategy was identified by the resolution authority and was not addressed/removed by the undertaking. In this regard, sufficient safeguards are provided by the Level 1 itself, where the exceptional nature of the measures is embedded in the scope of application of the framework.