IRSG

INSURANCE AND REINSURANCE STAKEHOLDER GROUP

ADVICE ON TWO RTS'S ON IRRD VALUATION RELATED TOPICS

EIOPA-BoS-26-268
EIOPA-BoS-26-267

IRSG-26-36

IRSG SUMMARY

The Insurance and Reinsurance Stakeholder Group, IRSG, welcomes EIOPA's work to establish common, transparent and credible methodologies for Valuations 1, 2 and 3 under the Insurance Recovery and Resolution Directive, IRRD. A harmonised framework can support effective resolution decisions and consistent protection of policyholders, beneficiaries and claimants. It must nevertheless remain proportionate, operationally feasible and tailored to insurance and reinsurance.

POLICYHOLDER PROTECTION AND OPERATIONAL FEASIBILITY

The collective interest of policyholders, beneficiaries and claimants should remain central throughout all three valuations. Policyholder protection requires fair, prudent and realistic results, but also timely action and continuity of coverage, claims payments and critical functions. Unsupported discounts, excessive simplification or overlapping prudence margins could transfer avoidable losses to policyholders. Conversely, marginal improvements in precision should not delay protective action materially. Where a definitive valuation cannot be completed within the available decision window, a decision-useful provisional valuation should use the best available information, controlled simplifications, documented assumptions and transparent ranges. A best point estimate should be provided where sufficiently robust; otherwise, a transparent range may be the primary result if the report explains how it informs the relevant decision. This should be, followed by a definitive independent valuation.

TECHNICAL CHALLENGES

Insurance valuation is an end-to-end process, not merely a model run. It requires data extraction, reconciliation, assumptions, reinsurance, legal analysis, governance and reporting across policy, claims, investment, actuarial and finance systems. Critical capability may also depend on legacy systems, outsourced providers, cloud environments, data licences, software vendors, intra-group service centres and a limited number of specialists. The RTS should permit materiality thresholds and documented reconciliation differences where complete record-level alignment is not achievable in time. Group arrangements should be recognised only where legally enforceable, operationally available and materially relevant, consistently with Solvency II and without assuming automatic group-wide loss sharing or requiring internal duplication of outsourced capabilities.

VALUATIONS 1 AND 2

IRSG supports Solvency II as an important operational reference, while preserving the distinct purposes of Valuations 1 and 2. Valuation 1 determines whether the Article 19 resolution conditions are met, so its basis should be appropriate to the condition assessed. Where national accounting, insolvency or other legally relevant rules require another basis, the valuer should provide a transparent reconciliation. Such a bridge may involve different contract boundaries, cash-flow perimeters, discounting, risk allowances, future premiums, reinsurance, tax and creditor classifications. The RTS should not presume that undertakings maintain several fully operational valuation engines for simultaneous use at short notice.

Valuation 2 should support selection and calibration of the appropriate resolution action. Authorities should identify a sufficiently diverse but operationally manageable set of credible and materially decision-relevant resolution alternatives instead of requiring complete valuations for every theoretical tool. A controlled baseline with targeted overlays and sensitivities may be more reliable than several full reruns. Concurrent scenarios may compete for the same systems and specialists needed for prudential reporting, liquidity monitoring, financial close and claims payments. Scenario prioritisation is therefore also relevant to policyholder service continuity.

Transfer valuations should reflect purchaser capacity, approvals, capital needs, operational infrastructure and portfolio servicing. Accelerated-sale and illiquidity discounts should be evidence-based and separately identified. For partial transfers, the valuation should verify whether reinsurance, collateral and servicing arrangements follow the policies. Treaty limits, deductibles, reinstatement premiums, event definitions, consents and termination rights may make proportional allocation unreliable. Franchise value should be considered where required by the transfer methodology and continuation or renewal is legally and operationally credible, without presuming a positive value. A reasoned assessment may yield a nil or negative value and should avoid double counting.

IRSG supports proportionate extrapolation for the additional loss buffer in provisional valuations. Samples, cohorts and peer data should be sufficiently comparable and adjusted for product, duration, guarantees, reinsurance and jurisdiction. Peer data should not be used mechanically where comparability is weak. The definitive valuation should reconcile the provisional buffer and document material differences, including any consequential adjustment under Article 25(2)-(3) IRRD.

VALUATION 3 AND THE NCWO SAFEGUARD

Valuation 3 should remain analytically and substantively separate from Valuations 1 and 2. The hypothetical insolvency counterfactual must be grounded in applicable national insolvency law and special insurance legislation. The RTS should harmonise methodology and documentation

without replacing national rights, creditor rankings, policy-continuation rules or guarantee arrangements with a uniform European outcome. Entry into insolvency should not automatically mean termination of every policy where national law provides for continuation, transfer, claims handling, an insurance guarantee scheme or substitute protection. This is especially important for compulsory insurance, long-term business, long-tail claims and injured third parties.

Guarantee schemes and compensation bodies should be reflected according to eligibility, limits, timing and subrogation rights, avoiding double counting. Replacement costs should represent the commercially reasonable cost of comparable cover available at prevailing rates within a reasonable time, including relevant fees, premiums and monetary effects of waiting periods, exclusions or reduced coverage. Statutory insurance may require separate analysis. Discounted cash flows may provide a common economic method, but should not displace national-law settlement values, surrender values, asset segregation, ranking or other product-specific consequences.

Valuation 3 also creates a reconstruction challenge because policies, assets, claims records, contracts and systems may already have been transferred, modified or migrated. Relevant data snapshots, model and assumption versions, decisions and transaction records should be preserved at the resolution date. Cohort and actuarial methods may support common inputs and replacement costs, but the comparison and any NCWO entitlement must remain determinable for each affected person, including persons with several capacities. Actual treatment should capture economically material contractual changes; effects that cannot be reliably monetised should be disclosed separately, including where one person has several legally relevant capacities.

NATIONAL SPECIFICITIES, PROPORTIONALITY AND THE IRRD MANDATE

The RTS should contain an explicit horizontal proportionality principle covering purpose, materiality, available information and time, business model, national market structure and policyholder impact. Small or concentrated markets may lack comparables, transactions, purchasers and independent specialists familiar with local products, insolvency law and claims practices. Alternative documented methods and proportionate conflict-management arrangements should therefore be possible. Size alone should not determine simplification. Life, unit-linked, long-tail and short-tail non-life, reinsurance, mutual and statutory businesses raise different questions. National special legislation may determine compulsory coverage, injured-party rights, policy continuation, claim priority and compensation bodies.

The RTS should remain within the IRRD empowerments , distinguish binding methodology from illustrative guidance and avoid new substantive insolvency rules or open-ended operational obligations. Existing reliable data should be reused, and additional calculations should be required only where material to the decision or necessary to protect policyholders, beneficiaries and claimants.

RTS ON THE VALUE OF ASSETS AND LIABILITIES IN THE CONTEXT OF RESOLUTION AND THE METHODOLOGY FOR CALCULATING THE BUFFER FOR ADDITIONAL LOSSES IN PROVISIONAL VALUATIONS.

Q1. DO YOU HAVE GENERAL COMMENTS ON THE CONSULTATION PAPER?

IRSG supports the objective of establishing a common and credible framework for Valuations 1 and 2. The proposed RTS is a useful starting point, particularly because it anchors the valuation in Solvency II while allowing targeted departures where the resolution purpose requires them. However, the framework should distinguish more clearly between a valuation that is theoretically complete and one that is operationally deliverable under severe time pressure.

Insurance balance sheets are produced through complex, interdependent actuarial, policy administration, claims, reinsurance, investment and finance systems. A full rerun, including data extraction, validation, model execution, management judgements and controls, may not be feasible within hours or a few days. The RTS should therefore establish a proportionate, staged approach: a decision-useful provisional valuation based on controlled simplifications, followed by a definitive valuation once sufficiently reliable data and model runs are available. Speed should not be achieved by concealing uncertainty or transferring avoidable risk to policyholders.

The time required for a reliable valuation should be assessed on an end-to-end basis. Model execution is only one component. The process also includes data extraction, quality checks, reconciliation, assumption setting, reinsurance allocation, tax and legal analysis, governance review and production of decision-useful reporting. Accelerating one calculation engine does not remove these dependencies.

Articles 24(6)(b) and 25(4) empower EIOPA to specify valuation methodologies and the buffer methodology. They do not justify turning every possible data source, scenario or analytical output into a uniform operational obligation. The RTS should distinguish binding minimum methodology from illustrative information and apply requirements proportionately to purpose, materiality, time available, business model and the nature, scale and complexity of the undertaking.

Q2. DO YOU HAVE COMMENTS ON THE BACKGROUND AND ANALYSIS SECTION?

The Background and Analysis correctly identifies the different purposes of Valuations 1, 2 and 3 and recognises the need for flexibility in national contexts. The analysis should nevertheless go further in describing insurance-specific operational constraints. Unlike many banking assets, insurance liabilities require portfolio-level projections over long horizons, interaction with reinsurance, options and guarantees, claims development, policyholder behaviour and assumptions that may be embedded in several legacy systems.

The analysis should also recognise that national market size, concentration, product design, guarantee schemes and legislation can have unexpected and material consequences. In a small or concentrated market, comparable transactions and credible acquirers may be scarce. Statutory insurance may be governed by special national legislation that affects benefit continuity, claim ranking, transferability and the practical consequences of policy discontinuation. These factors should be treated as core valuation inputs rather than residual expert judgement.

The analysis should expressly test each requirement against the Level 1 mandate and the IRRD proportionality principle. Insurers may ultimately bear a significant share of the operational effort required to provide, reconcile and validate the necessary inputs. The RTS should acknowledge this impact and avoid introducing pre-valuation preparedness requirements that are not explicitly envisaged by the Level 1 framework. Small or concentrated markets may lack peers, transactions and acquirers. Life, long-tail non-life, short-tail, reinsurance, mutual and statutory insurance businesses require different methods and degrees of granularity.

Q3. DO YOU HAVE COMMENTS ON THE RECITALS?

No comments.

Q4. DO YOU HAVE COMMENTS ON THE FOLLOWING ARTICLES?

ARTICLE 1 - DEFINITIONS

The definitions are broadly appropriate. The definition of franchise value should clarify that renewal assumptions must not presume continuation of business where legal, operational or policyholder behaviour constraints make continuation unrealistic. It should also require avoidance of double counting between existing-contract cash flows, renewal value and transfer synergies.

The definition could also provide further clarity on the yield curve to be used for present value calculations.

ARTICLE 2 - GENERAL CRITERIA

IRSG supports disclosure of key assumptions and the use of best point estimates supplemented by ranges. In highly uncertain resolution conditions, however, a best point estimate may imply a degree of precision that the underlying data cannot support. Article 2 should retain identification of a best point estimate where one can be produced reliably. Where the valuer cannot identify a sufficiently robust point estimate, a range should be permitted as the primary result, provided that the valuation report explains how the range informs the relevant resolution decision, with ranges and sensitivities describing the surrounding uncertainty.

The creditor-class analysis should be explicitly subject to applicable national insolvency and special insurance legislation. For statutory insurance, the legal position of policyholders, beneficiaries and injured third parties may not be captured by generic creditor classes. The documentation should explain any legal interpretation and its effect on policyholder outcomes.

ARTICLE 3 - VALUATION DATE

The proposed dates are conceptually sound, but 'as close as possible' needs an operational safeguard. Source systems often close on different cycles, and actuarial calculations may depend on validated snapshots that are not available in real time. The valuer should be permitted to use the latest reliable reference date and roll it forward using material movements, with clear reconciliation to the resolution date.

The RTS should avoid requiring a full model rerun solely to eliminate a short timing difference where that rerun would delay the decision without materially improving reliability. The valuation report should state the data cut-off, roll-forward method and unrecognised post-cut-off events.

ARTICLE 4 - SOURCES OF INFORMATION

The information list is comprehensive but potentially open-ended. Article 4 should introduce a hierarchy based on relevance, reliability, timeliness and proportionality. The resolution authority and the entity should agree in advance, through resolution planning, on a minimum valuation data set and mapping from source systems.

The operational challenge is not limited to extracting data from multiple systems. The undertaking and the valuer must reconcile different valuation perimeters, data cut-off dates, aggregation levels and identifiers across policy, claims, reinsurance, investment, actuarial and general-ledger systems. The RTS should permit documented reconciliation differences and materiality thresholds where complete record-level alignment cannot be achieved within the relevant decision window.

The phrase 'any other information deemed relevant' should not support unlimited urgent data requests. Requests should be linked to a material valuation question. Where information is unavailable or cannot be produced within the decision window, the valuer should use documented proxies, sensitivities or prudent adjustments rather than delay a necessary resolution action.

ARTICLE 5 - IMPACT OF GROUP ARRANGEMENTS

Article 5 appropriately addresses contractual and informal group arrangements. The assessment should also cover operational dependencies such as shared policy administration, actuarial models, data warehouses, claims handling, investment management and payment infrastructure. These dependencies can affect whether cash flows and services can continue during resolution.

Critical valuation capability may depend on outsourced service providers, cloud environments, market-data licences, actuarial software vendors and intra-group service centres. Availability in business as usual should not be treated as evidence of uninterrupted access during resolution. The assessment should consider contractual continuity, access rights, payment dependencies and the availability of specialist support, without requiring every undertaking to duplicate outsourced capabilities internally.

The presumption that arrangements remain available should be evidence-based and should consider enforceability across jurisdictions, termination rights, collateral, service continuity and the financial condition of other group entities. Policyholder protection requires particular caution where the valuation assumes continued group support that may not be legally enforceable.

Group arrangements should be considered only where legally enforceable, operationally available and materially relevant. Smaller or simpler groups should not face the same mapping depth as highly interconnected groups unless justified by the valuation purpose.

Article 5(3) should be clarified, as its purpose and interaction with the existing Solvency II group framework are unclear. The clarification should distinguish legally and operationally available resources from any presumption of automatic support or loss-sharing between group entities.The provision should not introduce a separate or more restrictive assessment of the availability and fungibility of group own funds, nor imply that group entities are generally expected to absorb losses arising in another entity. In a resolution context, the relevant entity or business may need to be separated, transferred or operated independently from the rest of the group, with resolution tools and financing arrangements serving to support an orderly resolution while limiting contagion to other group entities. Any assessment under Article 5 should therefore reflect the specific purpose and circumstances of the relevant Valuation 1 or Valuation 2, remain consistent with the Solvency II group framework and avoid creating either an assumption of automatic group-wide loss sharing or unintended consequences for the recognition of group own funds.

ARTICLE 6 - VALUATION REPORT

IRSG supports a structured valuation report, including ranges, uncertainties and sensitivities. The report should also contain an executive decision layer that distinguishes verified data, estimates, proxies and expert judgement. It should explain which limitations could change the choice or calibration of a resolution tool.

The report should identify the model, data and assumption versions used, material departures from the undertaking's latest controlled valuation process, and the ownership and approval status of significant expert judgements. Full business-as-usual governance may not be feasible during resolution, but a minimum audit trail is essential for reconciling a provisional result with the later definitive valuation.

For provisional valuations, reporting requirements should be concise but not opaque. A standard core template, with optional annexes by product and jurisdiction, would improve comparability and reduce repeated ad hoc requests. Confidential policyholder and commercially sensitive data should be protected, while the authority should be able to communicate understandable reasons for decisions affecting policyholders.

ARTICLE 7 - FIRST VALUATION

Using Solvency II as the default basis is appropriate because firms and supervisors already operate the relevant models and data processes. The permitted use of local GAAP, IFRS, insolvency rules or other national rules for Article 19(4)(c) is necessary, but the trigger and governance for deviation should be clearer.

The practical challenge of using more than one valuation basis extends beyond an accounting bridge. Alternative bases may require different contract boundaries, cash-flow perimeters, discount rates, risk allowances, treatment of future premiums, reinsurance recognition, tax assumptions and creditor classifications. The RTS should not presume that undertakings maintain several fully operational valuation engines capable of simultaneous use at short notice.

A deviation should be used only where it is legally relevant and materially affects the assessment. The valuer should provide a bridge from the Solvency II result to the alternative basis, separating methodological, data and assumption effects. This would preserve convergence while respecting national legal consequences.

Article 23(4) expressly requires Solvency II consistency for Valuation 2, while the draft RTS extends that starting point to Valuation 1. For Valuation 1, any departure from the Solvency II starting point should be targeted to the legally relevant assessment under Article 19(4)(c), with a

transparent reconciliation to Solvency II. The response should not be read as proposing broader flexibility beyond what is necessary for that legal assessment.

ARTICLE 8 - SECOND VALUATION

Article 8 should better recognise the workload created by requiring separate valuations for a sufficiently diverse range of resolution actions. Multiple scenarios may require distinct asset sale assumptions, policyholder behaviour, reinsurance treatment, operational continuity and tax effects. Running all scenarios through production-grade systems may be impossible within the available window.

The RTS should recognise capacity constraints where several scenarios are requested simultaneously. Valuation runs may compete for the same controlled production environments, data warehouses, actuarial engines and specialist personnel that are also needed for prudential reporting, liquidity monitoring, financial close and continuity of claims payments. Scenario prioritisation is therefore necessary not only to reduce cost, but also to avoid impairing critical insurance operations during resolution.

The authority should first identify a sufficiently diverse but operationally manageable set of credible resolution alternatives and material decision variables. The valuer could then use a common baseline with targeted overlays, reserving full reruns for scenarios that remain genuinely decision-relevant, so that operational simplification does not unduly narrow the authority's options. Any simplification should be tested for asymmetric effects on policyholders and claimant groups.

ARTICLE 9 - ADJUSTMENTS FOR RESOLUTION TOOLS INVOLVING A TRANSFER

The proposed transfer adjustments are relevant, but observable transactions may be scarce for insurance portfolios, especially in small or concentrated national markets. Article 9 should require explicit consideration of buyer capacity, portfolio-specific servicing obligations, regulatory approvals, capital requirements and the availability of operational infrastructure.

For partial portfolio transfers, the valuation should assess whether and on what legal and operational basis reinsurance protection, collateral and related servicing arrangements follow the transferred policies. A simple proportional allocation may be unreliable where treaty limits, aggregate deductibles, reinstatement premiums, event definitions, consent requirements or termination rights apply.

Accelerated sale and illiquidity discounts should not become automatic prudence margins. They should be supported by evidence and presented separately from other adjustments. Otherwise, policyholders may bear an excessive reduction that reflects process constraints rather than the economic value of the portfolio.

Franchise value should be considered for sale and bridge tools where required by the methodology, but this should not create any presumption that the value must be positive. A reasoned assessment should be permitted to yield a nil or negative value, while avoiding double counting, including for closed books, statutory insurance, mutuals and small markets with few purchasers. EIOPA should also correct the apparent cross-reference in Article 9(1), where the reference to Article 8(5) appears intended to refer to Article 8(4).

ARTICLE 10 - AREAS REQUIRING PARTICULAR ATTENTION IN THE VALUATION

No comments.

ARTICLE 11 - FACTORS AFFECTING THE VALUATION

The factors are relevant. National product and legal characteristics should be added expressly. Examples include mandated benefits, restrictions on policy termination or transfer, compensation-body arrangements, indexation rules and the treatment of injured third parties under statutory insurance.

Policyholder behaviour assumptions should recognise that behaviour during distress may differ from historical experience, but adjustments should be evidence-based. The RTS should require sensitivity analysis where lapses, premium suspension or claims acceleration are material, rather than a single conservative assumption that could distort outcomes.

ARTICLE 12 - METHODOLOGY FOR CALCULATING AND INCLUDING A BUFFER FOR ADDITIONAL LOSSES

IRSG supports extrapolation for a provisional valuation because a complete valuation may be incompatible with the urgency of resolution. However, Article 12 requires stronger safeguards. Extrapolation should be based on sufficiently homogeneous portfolios, explain the selection of the sample or peer set, adjust for product, duration, guarantees, reinsurance and jurisdiction, and include back-testing or sensitivity analysis where feasible.

Peer data may be unsuitable in small markets or for specialised and statutory products. The valuer should not be required to use peer extrapolation where comparability is weak. A layered buffer should be considered, separating identified but unmeasured losses, model and data uncertainty, and resolution-action uncertainty. Overlapping margins must be removed to avoid excessive write-downs that undermine policyholder protection.

ARTICLE 13 - ENTRY INTO FORCE AND APPLICATION.

The twentieth-day entry into force should be distinguished from operational application and preparedness. Entry into force should not be interpreted as requiring immediate full operational

readiness. Firms, authorities and valuers need proportionate time, through resolution planning, to establish data specifications, contractual access, governance, model documentation and dry-run procedures.

The final RTS should include a proportionate implementation period and transitional expectations. Resolution planning should include at least one valuation preparedness exercise before full application, with remediation focused on material data and process gaps.

Q5. DO YOU HAVE ANY COMMENTS ON THE POLICY ISSUES IN THE IMPACT ASSESSMENT?

POLICY ISSUE A: MEASUREMENT BASIS FOR THE PURPOSES OF VALUATION 1

IRSG supports Policy Option A.3. Solvency II provides a common operational base, while a targeted deviation for Article 19(4)(c) is needed where national accounting or insolvency rules affect the legal test. The final framework should require a transparent reconciliation between bases and avoid using national flexibility beyond what is necessary for the legal assessment.

The impact assessment understates the cost of maintaining multiple measurement bases and the time needed to source, map and validate data. It should also consider the cost of pre-resolution preparedness, including data lineage, vendor access, model documentation and dry runs.

POLICY ISSUE B: BUFFER FOR ADDITIONAL LOSSES IN THE CASE OF A PROVISIONAL VALUATION.

IRSG supports Policy Option B.2, subject to safeguards on representativeness, documentation and review. A complete buffer calculation could defeat the purpose of a provisional valuation and delay action that protects policyholders. Extrapolation is therefore necessary, but it should not be unconstrained.

The RTS should require the valuer to explain why the chosen segment or peer data is comparable, quantify key sensitivities and identify circumstances requiring an uplift or alternative method. The definitive valuation should review the provisional buffer and document material differences so that lessons can improve future preparedness.

Q6. ARE THERE ANY ELEMENTS IN THE PROPOSED RTS WHICH COULD BE MODIFIED TO REDUCE THE ADMINISTRATIVE BURDEN OR IMPROVE THE (COST) EFFICIENCY OF THE REQUIREMENTS?

IF SO, PLEASE PROVIDE A (MONETARY) ASSESSMENT OF THE EXPECTED EFFICIENCY BROUGHT BY THE PROPOSED CHANGE.

The greatest efficiency gain would come from a standard minimum valuation data set, pre-agreed data definitions, reusable reconciliation templates, a common report structure and a staged valuation process. The RTS should permit controlled use of the latest validated data with roll-forward adjustments, rather than requiring complete fresh extracts and model reruns for every scenario.

A reliable monetary estimate cannot be provided without firm-specific information on systems, portfolios, outsourcing and existing preparedness. EIOPA should therefore assess efficiency through scenario-based cost categories and request evidence from firms after dry runs. Relevant categories include internal IT and actuarial effort, external valuation and legal fees, model execution, data remediation, and the cost of delayed action. This is more credible than a single EU-wide monetary figure.

Q7. DO YOU HAVE ANY OTHER COMMENTS?

The RTS should encourage valuation preparedness as part of resolution planning. Authorities and firms should identify critical data, model owners, external licences, service dependencies and realistic production times in advance. Without such preparation, legal deadlines cannot make complex calculations instantaneous.

Valuation preparedness should also identify key-person dependencies in actuarial, claims, reinsurance, finance, legal and IT functions. A methodology may be technically available but not operationally executable if product, data or model expertise is concentrated in a small number of employees or external specialists. Proportionate preparedness should include documentation and access arrangements for material expertise without requiring full duplication of specialist functions.

Policyholder protection should be assessed not only through valuation accuracy but also through continuity of claims payments, access to compulsory cover and clear communication. A valuation method that is marginally more precise but materially delays protective action may produce a worse practical outcome.

EIOPA should insert a horizontal proportionality clause covering purpose, materiality, reliability, available time, business model, national market features and policyholder impact.

RTS SPECIFYING THE METHODOLOGY FOR ASSESSING THE TREATMENT THAT SHAREHOLDERS, POLICYHOLDERS, BENEFICIARIES, CLAIMANTS AND OTHER CREDITORS WOULD HAVE RECEIVED IF THE UNDERTAKING UNDER RESOLUTION HAD ENTERED INSOLVENCY PROCEEDINGS, THE METHODOLOGY FOR THE ESTIMATION OF THE REPLACEMENT COSTS, AND THE SEPARATION OF VALUATIONS IN RESOLUTION AND INSOLVENCY PROCEEDINGS.

Q1. DO YOU HAVE GENERAL COMMENTS ON THE CONSULTATION PAPER?

IRSG supports a harmonised methodology for the NCWO comparison and agrees that Valuation 3 must remain separate from Valuations 1 and 2. The proposed high-level framework is directionally sound, but it must give greater weight to national insolvency law, special insurance legislation and the practical availability of evidence.

NCWO is not a purely financial model comparison. For statutory insurance, policyholders, beneficiaries and injured third parties may have rights arising from special national laws, compensation bodies or guarantee arrangements. These may affect claim continuation, priority, recoveries and the identity of the party bearing losses. The RTS should ensure that harmonisation does not override or simplify away these legal rights.

Article 56(4) empowers EIOPA to specify the methodology for the difference-in-treatment valuation and replacement costs. It does not empower the RTS to replace the national-law counterfactual with a uniform EU insolvency scenario. National insolvency and special insurance law must determine substantive rights, rankings, continuation and recoveries.

Q2. DO YOU HAVE COMMENTS ON THE BACKGROUND AND ANALYSIS SECTION?

The Background recognises insurance claims and replacement costs as insurance-specific features. It should also explain that the hypothetical insolvency counterfactual can be especially complex where policies cannot simply be replicated in the market or where discontinuation conflicts with national arrangements for compulsory insurance.

National market size and product structure can affect every stage of the comparison. In a small market, there may be few replacement providers, limited transaction evidence and concentration of specialist expertise. The analysis should acknowledge that these features may lengthen the valuation, increase uncertainty and require national legal and actuarial expertise.

Valuation 3 also involves a substantial reconstruction challenge. By the time it is performed, policies, contracts, assets, claims records and operational systems may have been transferred, modified, separated or migrated. The valuer may need to reconstruct both actual treatment and the hypothetical insolvency counterfactual using data held by several entities and service providers. Relevant data snapshots, model versions, decisions and transaction records should therefore be preserved at the time of the resolution action for the subsequent NCWO valuation.

In a small market, proportionality should also take account of the limited pool of independent valuers and specialists with knowledge of local products, insolvency law and claims practices. Requiring several simultaneous and fully independent specialist workstreams may be impracticable. Independence safeguards should remain robust, but potential conflicts may need to be managed through transparent governance, targeted external expertise and a clear division of responsibilities.

Q3. DO YOU HAVE COMMENTS ON THE RECITALS?

No comments.

Q4. DO YOU HAVE COMMENTS ON THE FOLLOWING ARTICLES?

ARTICLE 1 - GENERAL PROVISIONS

No comments.

ARTICLE 2 - INVENTORY OF ASSETS AND CLAIMS

The inventory requirement is necessary but demanding. The RTS should recognise that a complete claimant-level inventory, including contingent and incurred-but-not-reported claims, may require reconciliation across policy, claims, legal and reinsurance systems. The valuer should be allowed to use clearly documented estimation techniques where individual identification is not feasible.

Classification by priority must be based on national insolvency and special insurance law. For statutory insurance, injured parties may have direct rights or special protection that does not fit generic creditor categories. Specialist legal advice should be required where classification is material or contested.

A complete inventory of every identifiable and contingent asset and claim may be operationally demanding. Particular care should be taken to ensure that relevant rights and claims are captured where an affected person may have more than one capacity, including as a policyholder, beneficiary or employee. Article 56 requires Valuation 3 to determine the treatment of each affected person, while Article 56(3)(c) expressly permits appropriate policyholder cohorts for replacement costs. Cohort, sampling and actuarial techniques should therefore be permitted for estimating common inputs and replacement costs where appropriate, but the resulting NCWO comparison and any entitlement under Article 57 must remain capable of determination for each affected person.

ARTICLE 3 - STEPS OF THE VALUATION

The three-step structure is clear. Article 3 should additionally require consistency in perimeter, claimant identity, tax, currency, discounting and timing between the hypothetical insolvency and actual-resolution legs. Differences should reflect the two scenarios, not inconsistent data or modelling conventions.

The comparison should show outcomes by legally relevant class and may use product cohorts for common valuation inputs where appropriate. However, aggregation must not conceal whether an individual affected policyholder, beneficiary, claimant or other creditor is worse off, because Articles 56 and 57 require the difference and resulting entitlement to be determined for each affected person.

ARTICLE 4 - TREATMENT IN NORMAL INSOLVENCY PROCEEDINGS

A winding-up scenario provides a common counterfactual, but assuming discontinuation of all policies may be legally or practically unrealistic for certain statutory insurance classes. National law may require continuity, transfer, claims handling or intervention by a guarantee or compensation body. Article 4 should therefore state that discontinuation is applied in accordance with national law and should identify any legally mandated continuation or substitute protection. EIOPA should clarify the relationship between the general discontinuation assumption and the applicable-insolvency-law qualification, including legally available continuation or transfer arrangements.

Payments from guarantee schemes and compensation bodies should be included with careful attention to subrogation, timing, limits and funding. Double counting between direct recoveries and scheme payments must be prevented.

ARTICLE 5 - VALUATION OF ASSETS AND CLAIMS IN NORMAL INSOLVENCY PROCEEDINGS

The discounted cash-flow approach is appropriate, but Articles 5(2) and 5(3) leave significant discretion in discount rates, disposal periods, costs and recoveries. The report should provide a central scenario and sensitivities for key variables, especially where there is little relevant domestic insolvency experience.

Similar past cases and comparable transactions may not exist in small markets. The absence of evidence should not be filled automatically with data from structurally different jurisdictions. Any external benchmark should be adjusted for market depth, product mix, legal ranking, guarantee arrangements and liquidation practice. Material national assumptions, including those affecting the treatment of policyholders, beneficiaries and other affected persons with different legal capacities, should be clearly visible.

ARTICLE 6 - SPECIFIC PROVISIONS FOR VALUATION OF CLAIMS RELATED TO INSURANCE POLICIES IN NORMAL INSOLVENCY PROCEEDINGS

Article 6 is central to policyholder protection but needs further specification. In line with recital 42 and Article 56(3)(c) IRRD, replacement cost should reflect the commercially reasonable cost of concluding a new contract with comparable cover available in the market at prevailing rates within a reasonable time, rather than merely a quoted premium. Relevant monetary effects may include brokerage and closing fees, new premiums and costs attributable to waiting periods, exclusions or reduced limits where these affect the cost of obtaining genuinely comparable available cover.

For compulsory insurance, replacement may be governed by special allocation mechanisms or national rules, while the absence of cover may expose both the policyholder and injured third parties. The methodology should permit a separate assessment for such products. It should also avoid assuming that a short remaining policy term makes the adverse effect immaterial where an insured event or renewal barrier creates a significant protection gap.

ARTICLE 7 - SUPPLEMENTARY PROVISIONS FOR SPECIFIC CONTRACTS IN NORMAL INSOLVENCY PROCEEDINGS

The provisions on derivatives and reinsurance are appropriate. The reinsurance assessment should explicitly consider cut-through clauses, funds withheld, collateral, set-off, termination rights and the treatment of recoverables under national insolvency law. Also, for partial portfolio transfers, the valuation should not assume that reinsurance protection follows the transferred policies

automatically or in the same proportion as the underlying liabilities. Treaty limits, aggregate deductibles, reinstatement premiums, event definitions, collateral, consent requirements and termination clauses may materially affect the net value of the transferred portfolio. These effects may require legal interpretation and cannot always be allocated reliably through a simple proportional approach.

Where reinsurance recoveries depend on continued claims handling or reporting, the valuation should include the operational cost and feasibility of preserving those recoveries. Gross and net outcomes should be reconciled to avoid overstating available proceeds.

ARTICLE 8 - DETERMINATION OF THE ACTUAL TREATMENT OF SHAREHOLDERS, POLICYHOLDERS, BENEFICIARIES, CLAIMANTS AND OTHER CREDITORS IN RESOLUTION

Article 8 should require consistent treatment of modified insurance policies and explicitly capture non-financial changes that affect value, such as reduced service, narrower coverage, altered claims handling or increased counterparty risk. Future cash-flow projections alone may not fully reflect these effects.

Where equity or debt is received, market-based valuation may be highly uncertain immediately after resolution. The valuer should use ranges and scenario analysis where markets are illiquid or the instrument has no credible observable price. Any difference between nominal and realisable value should be transparent.

Where contractual or service modifications cannot be reliably converted into a monetary amount, the valuer should disclose them separately and assess whether they affect comparability of treatment. The RTS should avoid speculative monetisation of service quality, operational disruption or customer inconvenience, while ensuring that material reductions in contractual coverage are not ignored merely because they are difficult to model. Where the same person is affected in more than one capacity, the relevant rights and interests should be appropriately reflected in the assessment. This is particularly relevant in mutual insurance undertakings, where policyholders are also owners and employees may simultaneously be employees, policyholders and owners.

ARTICLE 9 - VALUATION REPORT

IRSG supports minimum reporting elements. The valuation report should also include a legal-perimeter statement, claimant-class mapping, reconciliation of the resolution and insolvency scenarios, treatment of guarantee schemes, and a clear account of data limitations and aggregation methods.

To support policyholders without disclosing protected data, the resolution authority should, where compatible with Article 66 IRRD and applicable disclosure rules, communicate the effects of

the resolution action and provide an accessible explanation of the main valuation approach, uncertainties and available safeguards. The RTS should not be read as requiring publication of the full valuation report, which is not required by Article 56 IRRD. Where the valuation has material consequences for employees, the information provided should, where appropriate, support the exercise of applicable information and consultation rights.

ARTICLE 10 - ENTRY INTO FORCE AND APPLICATION

No comments.

Q5. DO YOU HAVE ANY COMMENTS ON THE POLICY ISSUES IN THE IMPACT ASSESSMENT?

POLICY ISSUE A: ASSUMPTIONS USED FOR THE VALUATION IN THE HYPOTHETICAL INSOLVENCY SCENARIO

IRSG supports Policy Option A.2 only if the phrase 'to the extent consistent with applicable insolvency law or practice' is applied robustly. High-level EU rules can improve transparency, but national law must remain determinative for rights, rankings and counterfactual treatment.

The impact assessment should give more weight to statutory insurance and small-market effects. National features are not merely a source of inconsistency. They may be legally indispensable to a correct NCWO result. Convergence should focus on transparent process, documentation and comparison, not forced uniformity of substantive outcomes.

POLICY ISSUE B: THE VALUER PREPARES AND SUBMITS TO THE RESOLUTION AUTHORITY A VALUATION REPORT

IRSG supports Policy Option B.2, a minimum set of reporting elements, because transparent assumptions and sensitivities are essential for confidence and legal defensibility. The minimum set should be proportionate and modular so that straightforward cases are not burdened with irrelevant detail.

The impact assessment assumes that the report may be public or provided to policyholders, although the RTS does not require public disclosure. The final analysis should distinguish the costs and benefits of reporting to the authority from those of external disclosure, and should address confidentiality, personal data and commercially sensitive information.

Q6. ARE THERE ANY ELEMENTS IN THE PROPOSED RTS WHICH COULD BE MODIFIED TO REDUCE THE ADMINISTRATIVE BURDEN OR IMPROVE THE (COST) EFFICIENCY OF THE REQUIREMENTS?

IF SO, PLEASE PROVIDE A (MONETARY) ASSESSMENT OF THE EXPECTED EFFICIENCY BROUGHT BY THE PROPOSED CHANGE.

Administrative burden could be reduced through common claimant-class templates, standard data dictionaries, pre-mapped national legal rules, coordinated requests from home and host authorities, and permission to use statistically sound cohort methods for large homogeneous portfolios. The RTS should avoid duplicative reconstruction where Valuation 2 data can be reused, while preserving analytical and governance separation between Valuations 2 and 3.

A credible monetary estimate requires case-specific information and cannot be stated responsibly at this stage. EIOPA should collect evidence from national dry runs and distinguish one-off preparedness costs from event-specific valuation costs. The assessment should include long-tail claims reconstruction, legal analysis of statutory insurance, guarantee-scheme data, external actuarial support and dispute handling.

Q7. DO YOU HAVE ANY OTHER COMMENTS?

The interaction between timeliness and procedural fairness deserves explicit treatment. Valuation 3 should be completed as soon as possible, as required by Article 56(1) IRRD, but an inflexible short deadline could reduce accuracy and weaken the rights of policyholders and claimants. Subject to Article 66 IRRD, affected stakeholders should receive appropriate information on the process and safeguards without requiring publication of confidential valuation milestones.

Finally, EIOPA should develop non-binding examples covering long-tail non-life claims, life policies with guarantees, cross-border groups, compulsory motor insurance and a small concentrated market. Examples would improve convergence while allowing national law to determine legal outcomes.

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