

GUIDELINES

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to specify further the criteria for the
identification of critical functions

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GUIDELINES TO SPECIFY FURTHER THE CRITERIA FOR THE IDENTIFICATION OF CRITICAL FUNCTIONS

INTRODUCTION

1. In accordance with Article 16 of Regulation (EU) No 1094/2010 (EIOPA Regulation)¹ and with Article 9(9) of IRRD, EIOPA issues these Guidelines to specify further the criteria for the identification of critical functions.
2. Pursuant to Article 2(25) of the IRRD critical functions mean, “activities, services or operations performed by an insurance or reinsurance undertaking for third parties that cannot be substituted within a reasonable time or at a reasonable cost and where the inability of the insurance or reinsurance undertaking to perform the activities, services or operations would be likely to have a significant impact on the financial system or the real economy in one or more Member States including, in particular, the impact resulting from effects on the social welfare of a large number of policy holders, beneficiaries or injured parties or from a systemic disruption or a loss of general confidence in the provision of insurance services”.
3. The Guidelines were developed in line with EIOPA’s views for better regulation and supervision², thereby enhancing supervisory convergence through simpler, more efficient frameworks.
4. The disruption of a critical function can have a severely negative impact on policyholders, beneficiaries and injured parties, the real economy or financial stability as a whole. The identification of critical functions is therefore a key element in the process of resolution planning and in the decision whether taking a resolution action is in the public interest.
5. During the development of these Guidelines EIOPA has considered the work of international bodies on critical functions such as the International Association of Insurance Supervisors (IAIS) and the Financial Stability Board (FSB). In particular, the Guidelines consider the 2016 FSB Guidance “Developing Effective Resolution Strategies and Plans for Systemically Important Insurers” and the 2023 FSB practices paper for the “Identification of Critical Functions of Insurers” as a basis.
6. The structure of these Guidelines builds on the several elements included in the definition of critical functions as provided for in Article 2(25) of the IRRD. This includes a section on general elements and specific sections covering the assessment of the likely significant impact on the real economy or the financial system and the analysis of the substitution at a reasonable cost and within

¹ 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 (OJ L 331, 15.12.2010, p. 48–83).

¹ 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 (OJ L, 2025/1, 8.1.2025, p. 1).

² [Bolder, Simpler, Faster: EIOPA’s views for better regulation and supervision](#)

a reasonable time. In these sections the Guidelines also cover some firm-specific factors which are relevant for the impact assessment or substitutability analysis.

7. The Guidelines also cover potentially critical functions that are not directly related to insurance, such as investments in and lending to the real economy and acting as a counterparty in derivative transactions, but the main emphasis is on the insurance functions.
8. For the purpose of identifying critical functions, the resolution authority may engage in a dialogue with the insurance supervisory authority, in accordance with Article 12 of the IRRD to collect additional information on specificities of the insurance market in the given Member State.
9. These Guidelines are addressed to resolution authorities as defined in Article 2(12) of the IRRD.
10. These Guidelines apply from 30 January 2027.
11. If not defined in these Guidelines, the terms have the meaning defined in the legal acts referred to in the introduction.

Type of potential critical functions

GUIDELINE 1 – SCOPE OF POTENTIAL CRITICAL FUNCTIONS

12. When assessing whether the insurance or reinsurance undertaking provides critical functions, the resolution authority should consider all functions provided to third parties, including the following categories of functions:
 - (a) insurance or reinsurance functions, including underwriting new (re)insurance business, providing coverage for already underwritten risks and settling claims due under existing insurance contracts; specific coverages falling in the scope of these key insurance or reinsurance functions are:
 - i. insurance and/or reinsurance coverage as a precondition for economic activities,
 - ii. insurance and/or reinsurance coverage as a precondition for individuals to go about their daily lives,
 - iii. insurance and/or reinsurance payments that are vital to individuals' financial security.
 - (b) non-insurance functions, including investment in and lending to the real economy, acting as a counterparty in derivatives, repo and securities lending markets and pooling of risks, as an economic function.
 - (c) insurance or reinsurance related functions, including claims management, actuarial services, pension fund management, asset management and other administrative functions.

General requirements for the identification of critical functions

GUIDELINE 2 – GEOGRAPHICAL LEVEL

13. The resolution authority should make an assessment for each Member State in which the insurance or reinsurance undertaking provides a function that may be likely to have a significant impact on the financial system or the real economy in that Member State.
14. For the purpose of this assessment, the resolution authority should assess the impact of the inability of the insurance or reinsurance undertaking to perform activities, services or operations

on the financial system or the real economy and their substitutability for the Member State as a whole.

15. Notwithstanding the previous paragraph 13, the resolution authority may decide to assess the impact and substitutability also at a regional level based on factors such as the importance or characteristics of the region for the Member State, the severity of the disruption at regional level, the potential contagion and differences between the Member State level and the regional level.

GUIDELINE 3 - CONSIDERATION OF AN INSURANCE GUARANTEE SCHEME, MEASURES UNDER NORMAL INSOLVENCY PROCEEDINGS, AND USE OF PUBLIC FUNDS IN THE IDENTIFICATION OF CRITICAL FUNCTIONS

16. When assessing whether activities, services or operations performed by an insurance or reinsurance undertaking meet the conditions set out in Article 2(25) of the IRRD, the resolution authority should exclude the following elements:

- (a) measures under normal insolvency proceedings if they reduce the impact of the inability to perform the function on the financial system or the real economy or facilitate substitution at a reasonable cost and within a reasonable time.
- (b) the use of an insurance guarantee scheme which is applicable to that insurance or reinsurance undertaking if the conditions for normal insolvency proceedings are met.
- (c) the use of public funds.

17. The measures listed under (a) - (c) above should not be considered given that the analysis of the effect of these measures are not part of the critical functions identification process. They relate to the resolvability assessment or the public interest test.

Specific guidelines for the assessment of the likelihood of a significant impact on the financial system or the real economy

GUIDELINE 4 - INABILITY TO PROVIDE THE FUNCTION

18. When assessing whether the inability of the insurance or reinsurance undertaking to provide a function that consists of certain activities, services or operations results in a significant impact, the resolution authority should use the assumption that these activities and operations cease completely and that the services are no longer provided. This means:

- (a) for the function of underwriting new insurance business for certain risks that, inter alia, no new business is written for these risks.
- (b) for the function of providing coverage for certain risks which have already been underwritten that, inter alia, cover for these risks is no longer provided.
- (c) for the function of making payments to certain policyholders, beneficiaries or claimants that, inter alia, no payments are made to these policyholders, beneficiaries or claimants.
- (d) for the function of investing in or providing funding to certain entities in the real economy that, inter alia, no new investments and loans into these entities are made and that existing investments including loans into these entities are immediately sold or called in.

- (e) for the function of acting as counterparty in certain derivatives, repo or securities lending transactions that, inter alia, the insurance or reinsurance undertaking does not enter into new transactions and that existing transactions are immediately terminated.

19. Alternatively, the resolution authority may assume a partial cease of the activities or operations of a certain function or the partial provision of the services of a certain function, which means that they are still performed or provided but no longer to a comparable extent, under comparable conditions and with comparable quality. Such approach can be taken only if the resolution authority can ensure, based on objective criteria and reasonable assumptions, that this results in a more accurate assessment of the impact.

GUIDELINE 5 - TRANSMISSION CHANNELS

20. When assessing the potential significant impact of the inability to provide a function on the real economy or the financial system, the resolution authority should consider at least the following transmission channels and/or their impact:

- (a) direct impact on third parties to which the function is provided. Depending on the specific function this includes, inter alia, a reduction in the level of activities, including the purchase of goods and services, and in the ability to meet obligations.
- (b) contagion from third parties to which the function is provided to other parties in the financial system or the real economy.

21. The resolution authority should consider whether it is necessary for the assessment referred to in the previous paragraph to consider any of the following elements:

- (a) the potential impact on the financial system, including on financial markets, financial market infrastructures, banks, insurance and reinsurance undertakings, IORPs or hedge funds, public services.
- (b) the potential impact on the real economy, including on the level of activity, output, employment, consumption, prices, incomes or profits in non-financial sectors of the economy.
- (c) further contagion including from the financial system to the real economy and vice versa.

GUIDELINE 6 - FACTORS TO CONSIDER FOR THE ASSESSMENT WHETHER A SIGNIFICANT IMPACT ON THE REAL ECONOMY OR THE FINANCIAL SYSTEM IS LIKELY

22. When assessing the significant impact of the inability to provide a function on the real economy or the financial system, the resolution authority should consider, inter alia, the following factors:

- (a) the characteristics of the function, including, where relevant, the risk(s) covered, the type of products, services or activities and in the case of insurance whether a mandatory coverage or coverage with specific legal requirements provided.
- (b) the type of third parties to which the function is provided, such as individuals, small and medium sized enterprises, large corporations, financial industry, state owned companies and public institutions, and the nature of their reliance on the continuing provision of the function.
- (c) the number of third parties to which the function is provided, the total volume and number of activities, services and operations and the respective market share of the insurance or reinsurance undertaking.

- (d) the geographical level at which the function is provided. The assessment may be carried out at national level, or, where justified, at regional level, for example, where there is a high concentration of policyholders/risks in a given area or where a legally mandated coverage predominantly applies within a specific region. The assessment may also be performed at European level, if and as necessary.
- (e) the impact of the disruption of the function on the third parties to which it is provided, including to what extent and how long they can continue their activities without the function or whether they can easily adjust their activities without a negative impact in terms of income or the assets' value.
- (f) the potential for contagion to other related parties, such as competitors, intermediaries, suppliers or creditors and the speed of such contagion, including the interdependencies between the third parties to which the function is provided and other parties, the potential for contagion following a change in societal sentiment and the relevance of the other parties to the financial system or the real economy.
- (g) Without prejudice to 16 (b), the potential for contagion to other insurance or reinsurance undertakings following a significant use of an insurance guarantee scheme that could trigger a substantial degree of ex-post funding putting a financial strain on those other insurance or reinsurance undertakings.

23. The resolution authority should consider whether there are any factors specific to the insurance or reinsurance undertaking, not already included in the previous paragraph, that may change the assessment on whether the inability to provide the function is likely to have a significant impact on the real economy or the financial system. Possible factors are, *inter alia*:

- (a) significance of the insurance or reinsurance undertaking's operations, which may be assessed based on its nature, size, market share (in the EU's internal market, national market or in markets for specific business lines), external and internal interconnectedness, complexity, extent of the cross-border activity and reputational risk (i.e. potential negative impact on the confidence in the whole sector in case of failure);
- (b) significant differences in the way the insurance or reinsurance undertaking performs the function compared to other insurance or reinsurance undertakings.
- (c) specifics in terms of interconnections between several functions provided to third parties, especially if they are critical.
- (d) significant differences in the composition of the third parties to which the insurance or reinsurance undertaking provides the function compared to its competitors.

GUIDELINE 7 - IMPACT RESULTING FROM EFFECTS ON THE SOCIAL WELFARE OF A LARGE NUMBER OF POLICY HOLDERS AND FROM THE SYSTEMIC DISRUPTION IN THE PROVISION OF INSURANCE SERVICES

24. When assessing whether there are functions for which the inability of the insurance or reinsurance undertaking to provide them is likely to have a significant impact on the real economy or the financial system resulting from effects on the social welfare of a large number of policy holders,

beneficiaries or injured parties, the resolution authority should consider, *inter alia*, the specific coverages referred to in paragraph 12(a).

25. When assessing whether there are functions for which the inability of the individual insurance or reinsurance undertaking to provide them is likely to have a significant impact on the real economy or the financial system resulting from the systemic disruption of insurance services the resolution authority should consider, *inter alia*, functions where the inability to provide them creates a risk to the financial stability, in particular resulting from the systemic relevance of the insurance or reinsurance undertaking that provides the function, according to the criteria in paragraph 18(a).
26. Possible indicators for a risk to financial stability as referred to in the previous paragraph are, *inter alia*, the impact on the third parties to which the function is provided and, for third parties providing financial services, their size, market share, external and internal interconnectedness, complexity, and cross-border activities.

GUIDELINE 8 - LOSS OF GENERAL CONFIDENCE IN THE PROVISION OF INSURANCE SERVICES

27. When assessing whether there are functions for which the inability of the insurance or reinsurance undertaking to provide them is likely to have a significant impact on the real economy or the financial system resulting from the loss of general confidence in the provision of insurance services, the resolution authority should consider, *inter alia*, the following aspects:
 - (a) a loss of confidence may occur for the whole market or for one or more segments.
 - (b) there may be a loss of confidence in the ability of insurance undertakings to meet their existing obligations or in the availability of new insurance coverage.
 - (c) the likelihood that the inability to provide a function results in a loss of confidence may depend, *inter alia*, on the impact, on the substitutability and on the perception of the situation by third parties to which the function is provided and by other parties.

Specific guidelines for the analysis of the substitutability at a reasonable cost and in a reasonable time

GUIDELINE 9 - APPROACH TO REASONABLE TIME AND REASONABLE COST

28. The resolution authority should consider whether the condition of substitutability within a reasonable time and at a reasonable cost can be met. This is the case if there are other entities available which are able and willing to replace the function with activities, services or operations:
 - (a) that provide the same or a similar economic function (that is, the same or similar underlying role for the real economy/end-users); and
 - (b) at a certain cost for the third parties and within a certain timeframe, that makes a significant impact on the real economy or the financial system not likely.

GUIDELINE 10 - FURTHER ELEMENTS OF THE SUBSTITUTABILITY WITHIN A REASONABLE TIME AND AT A REASONABLE COST

29. When assessing whether a substitution is possible at a reasonable time and at a reasonable cost the resolution authority should, *inter alia*, consider all of the following:

- (a) in the case of savings products with no or minimal coverage of biometric risks, non-insurance undertakings, such as investment funds, may provide the same or similar economic function;
- (b) the same, or a similar, economic function may only be provided by the substitute contracts if the counterparties have at least the same credit quality as the insurance undertaking, where relevant due to a business-to-business relationship. This is normally more relevant for reinsurance as well as functions provided to non-insurance financial institutions;
- (c) the condition for substitutability is only met if both the timeframe and cost are reasonable, as set out in Guideline 9. Both conditions have to be assessed together;
- (d) there may be a trade-off between cost and timeframe;
- (e) provided that any other conditions remain equal, the reasonable time for substitution becomes shorter if:
 - i. the speed with which the inability to perform the function impacts the real economy or the financial system increases;
 - ii. the magnitude of the impact increases;
- (f) the reasonable cost can be higher than the current costs for the third party associated with the current contract with the insurance or reinsurance undertaking;
- (g) the substitute contracts do not have to be available to all third parties to which the insurance or reinsurance undertaking provides the function and not all third parties to whom they are available are necessarily required to enter into them.

GUIDELINE 11 - FACTORS TO CONSIDER WHEN ASSESSING THE SUBSTITUTABILITY OF A FUNCTION WITHIN A REASONABLE TIME AND AT A REASONABLE COST

30. When assessing whether a function can be substituted within a reasonable time and at a reasonable cost the resolution authority should consider, *inter alia*, the factors listed below:

- (a) characteristics of the function including the type of products, services or activities;
- (b) properties of the market for the function (number, type and size of suppliers (including from other markets) providing the same or an equivalent function; level of market concentration; degree of product standardization; level of competitiveness; geographical level of the market; type of third parties to which the function is provided; timeliness and costs related to moving to a provider of a similar or equivalent function);
- (c) appetite and ability of other market participants to provide the same or similar function to the third parties, including the volume of the activities, services or operations to be substituted and the number of third parties to which they are provided; market share of the insurance or reinsurance undertaking with respect to the function provided; attractiveness of the business in terms of profitability and technical complexity; overall strategy of other market participants, the overall market environment; presence of barriers to entry in terms of requirements to

perform the function (such as HR-related functions) or any absorption issues in terms of the financial and solvency capacity to take over the business or large exposures;

- (d) obstacles to the provision of activities, services or operations by other entities (regulatory issues, including regarding competition; legal issues; unavailability of reinsurance in case of a transfer of contracts; operational issues, including with regard to IT;
- (e) any obstacles for the third parties to engage with the activities, services or operations provided by other entities, including any obstacles for policyholders to acquire new policies with the same or similar coverage due to, *inter alia*, a higher age or a deterioration in health, the availability of coverage (including the coverage capacity of a potential replacing party) or the time required to switch to a new product and any costs associated with such a move;
- (f) nature of the failure of the insurance or reinsurance undertaking, in particular whether the failure is idiosyncratic or occurring in the context of a system-wide crisis, as this impacts the availability of any replacing entities to provide the function.

31. The resolution authority should consider whether there are any other factors specific to the insurance or reinsurance undertaking, not included in the above list, that may alter the assessment. Possible other factors are, *inter alia*, those referred to in paragraph 23.

Specific guidelines for cross-border activities and groups

GUIDELINE 12 - TREATMENT OF SIGNIFICANT CROSS-BORDER ACTIVITIES

32. When assessing whether any significant cross-border activities within the meaning of Chapter VIII of Directive 2009/138/EU³ performed by the insurance or reinsurance undertaking include a provision of a critical function in the host Member State, the resolution authority should apply the same criteria as in the identification of a critical function for an insurance or reinsurance undertaking.

33. In case an insurance or reinsurance undertaking engages in significant cross-border activities the resolution authority should liaise with the resolution authority or resolution authorities of the host Member State or Member States to collect information on any specificities in the host Member State that might be relevant for the decision whether the insurance or reinsurance undertaking provides a critical function in the host Member State.

GUIDELINE 13 - GROUP ASPECTS IN THE IDENTIFICATION OF CRITICAL FUNCTIONS

34. In the assessment whether an insurance or reinsurance undertaking that is part of a group provides a critical function, the resolution authority should only consider activities, services and operations provided to entities outside the group.

³ Directive 2009/138/EU of the European Parliament and of the Council of 25 November 2009 on the taking up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p.1).

35. In case two or more entities within the group provide the same activity, service or operation which is not deemed as critical at individual entity level, in a certain Member State, the resolution authority should assess the significant impact of this function in that Member State.

COMPLIANCE AND REPORTING RULES

36. This document contains Guidelines issued under Article 16 of the EIOPA Regulation. In accordance with Article 16(3) of the EIOPA Regulation, resolution authorities are required to make every effort to comply with guidelines and recommendations.
37. Resolution authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or supervisory framework in an appropriate manner.
38. Resolution authorities are to 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.
39. In the absence of a response by this deadline, resolution authorities will be considered as non-compliant to the reporting and reported as such.

FINAL PROVISION ON REVIEWS

40. These Guidelines will be subject to a review by EIOPA .