

CONSULTATION
PAPER

CONSULTATION PAPER

on the proposal for Regulatory Technical Standards on the methodologies for assessing the value of the assets and liabilities of undertakings in the context of resolution and the methodology for calculating the buffer for additional losses to be included in provisional valuations.

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eiopa

European Insurance and
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RESPONDING TO THIS PAPER

EIOPA welcomes comments on the Consultation Paper on the proposal for Regulatory Technical Standards on the methodologies for assessing the value of the assets and liabilities of undertakings in the context of resolution and the methodology for calculating the buffer for additional losses to be included in provisional valuations.

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 20 October 2026, 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.

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.

Please note that EIOPA is subject to Regulation (EC) No 1049/2001 regarding public access to documents and EIOPA's rules on public access to documents.¹

Declaration by the contributor

By sending your contribution to EIOPA you consent to publication of all non-confidential information in your contribution, in whole/in part – as indicated in your responses, including to the publication of the name of your organisation, and you thereby declare that nothing within your response is unlawful or would infringe the rights of any third party in a manner that would prevent the publication.

Data protection

Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published. EIOPA, as a European Authority, will process any personal data in line with Regulation (EU) 2018/1725. More information on how personal data are treated can be found in the privacy statement at the end of this material.

¹ [Public Access to Documents.](#)

CONSULTATION PAPER OVERVIEW & NEXT STEPS

EIOPA carries out consultations with regard to its draft technical standards in accordance with Articles 10 and 15 of Regulation (EU) No 1094/2010.

This Consultation Paper presents the draft technical standards.

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. BACKGROUND AND ANALYSIS

With the introduction of Directive (EU) 2025/1 (Insurance Recovery and Resolution Directive: IRRD), minimally harmonised requirements for resolution authorities have been introduced in the European Union. These requirements are an essential step for the effective creation of the single market in financial services and require further specification in order to serve as a useful tool for resolution authorities. One of the most important areas of IRRD in that regard is the valuation of insurance or reinsurance undertakings or groups for the purposes of resolution.

Similar to Directive (EU) 2014/59 (Bank Recovery and Resolution Directive, BRRD) and Regulation (EU) 2021/23 (Central Counterparties Recovery and Resolution Regulation, CCPRRR) the IRRD includes provisions related to the valuation of insurance or reinsurance undertakings and groups for the purposes of resolution. The IRRD includes four separate empowerments for EIOPA to develop draft regulatory technical standards (RTS). Inspired by the approach taken by the European Banking Authority (EBA) for similar empowerments under the BRRD, these empowerments are merged into two RTS. The split between the two is based on the sequence of the several valuations in a resolution case: valuation 1, 2 and 3.

According to Article 23 of the IRRD, resolution authorities must ensure that any resolution action is taken on the basis of a valuation ensuring a fair, prudent and realistic assessment of the assets, liabilities, rights and obligations of the entity in scope. To that end, Article 23 furthermore distinguishes between two valuations: a first valuation assessing whether the conditions for resolution have been met (Valuation 1), and a second valuation which forms the basis for the resolution authority to decide on the appropriate resolution tools (Valuation 2). The empowerments related to Valuation 1 and 2 are provided in Article 24(6), point (b), and Article 25(4) of the IRRD and are addressed by this draft RTS. These separate empowerments have been merged into one RTS to provide clear and efficient access for stakeholders to the relevant provisions of Valuation 1 and 2 and thereby to streamline the resolution process for all parties involved.

Furthermore, Article 56 of the IRRD stipulates the requirement that, as soon as possible after the resolution action or actions have been effected, a valuation is carried out to assess whether shareholders, policy holders, beneficiaries, claimants and other creditors would have received better treatment if the undertaking under resolution had entered into normal insolvency proceedings and that it should be separated from the valuation carried out under Article 23 (Valuation 3). Its related empowerments are provided in Articles 24(6), point (c), and 56(4) of the IRRD and are addressed by a separate draft RTS.

The described approach to the four empowerments results in the submission of two draft RTS, one focused on Valuation 1 and 2, the other on Valuation 3. See Table 1 below for an overview of how the several empowerments are addressed.

	Table 1: Valuation related empowerments and their type of valuation	
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Empowerment	Article	Type of valuation	Draft RTS
EIOPA <u>shall</u> develop draft regulatory technical standards to specify the methodologies for assessing the value of the assets and liabilities of the insurance or reinsurance undertaking in the context of resolution.	24(6)(b)	1 and 2	Draft RTS on the methodologies for assessing the value of the assets and liabilities of undertakings in the context of resolution
EIOPA <u>shall</u> develop draft regulatory technical standards to specify, for the purposes of paragraph 1 of this Article, the methodology for calculating the buffer for additional losses to be included in <u>provisional</u> valuations.	25(4)	1 and 2	and the methodology for calculating the buffer for additional losses to be included in provisional valuations.
EIOPA <u>shall</u> develop draft regulatory technical standards to specify the separation of the valuations under Articles 23 and 56 of this Directive.	24(6)(c)	1, 2 and 3	Draft RTS on the methodology for assessing the difference in treatment between resolution and
EIOPA <u>shall</u> develop draft regulatory technical standards to specify the methodology for carrying out the valuation referred to in this Article, in particular the methodology for assessing the treatment that shareholders, policy holders, beneficiaries, claimants and other creditors would have received if the undertaking under resolution had entered insolvency proceedings at the time when the decision referred to in Article 64 was taken and the methodology for the estimation of the replacement costs.	56(4)	3	insolvency and the methodology for the estimation of the replacement costs, and the separation of valuations in resolution and insolvency proceedings.

The draft RTS was developed in line with EIOPA's views for better regulation and supervision, thereby enhancing supervisory convergence through simpler, more efficient frameworks.²

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

2. DRAFT TECHNICAL STANDARDS



EUROPEAN COMMISSION

Brussels, XXX
[...] (2026) XXX draft

COMMISSION DELEGATED REGULATION (EU) .../...

of DD month YYYY

supplementing Directive (EU) 2025/1 of the European Parliament and of the Council with regard to regulatory technical standards specifying the methodologies for assessing the value of the assets and liabilities of undertakings in the context of resolution and the methodology for calculating the buffer for additional losses to be included in provisional valuations.

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 , and in particular Article 24(6) point (b) and Article 25(4) thereof.

Whereas:

- (1) The valuer should ensure transparency, consistency and prudence in valuations delivered under this Regulation, by justifying their key methodologies and assumptions in a valuation report and by supporting it with the best available information, in particular when deviating from the assumptions, data and expert judgements as well as the parameters and methodologies the entity's management relied on for supervisory purposes.
- (2) In accordance with Article 23 of Directive (EU) 2025/1, the resolution process covered in this Regulation distinguishes between two valuations. A first valuation defined in Article 23(2) of Directive (EU) 2025/1 and a second valuation defined in Article 23(3) of that Regulation. For both the first and the second valuation it is appropriate, as a starting point, to be consistent with the applicable supervisory framework of Directive 2009/138/EC, in particular Article 75 of that Directive.

With regard to the first valuation, where the valuer deems adjustments necessary for the purposes of the assessment whether an entity is failing or likely to fail because its assets are or will, in the near future, be less than its liabilities within the meaning of Article 19(4)(c) of Directive (EU) 2025/1, it may alternatively rely on local Generally Accepted Accounting Principles (GAAP), International Financial Reporting Standards (IFRS), national insolvency rules or other rules and procedures applicable in national legislation.

With regard to the second valuation, if the resolution action involves a transfer of assets, liabilities, or ownership instruments, prevailing market conditions may deviate from the conditions as set out in Article 75 of Directive 2009/138/EC. This is an instance where adjustments to the valuation may be required, including to the underlying parameters and methodologies prescribed by Directive 2009/138/EC, to reflect discounts to market prices for accelerated sale, illiquidity, or other circumstances specific to the prevailing market conditions and parties involved. In addition, for resolution tools involving a transfer, reasonable expectations regarding the entity's franchise value should be taken into account.

- (3) Both the first and the second valuation may be provisional pursuant to Article 25 of Directive (EU) 2025/1, particularly in cases of exceptional urgency or where an independent valuation under Article 24(1), point (a), of Directive (EU) 2025/1 is otherwise not feasible. Such provisional valuations should include a buffer to account for additional losses and the uncertainty inherent in their provisional nature. This buffer and its computation should be based on a fair, prudent, and realistic assessment of the additional losses that may not have been properly considered in the provisional valuations. Where relevant this buffer and its computation should reflect the resolution actions likely to be adopted and be adequately explained and justified in the valuation report.
- (4) The provisions of this Regulation relate to two kinds of valuation methodologies. Firstly, this Regulation specifies valuation methodologies to be applied according to Article 23 of Directive (EU) 2025/1 with regard to the value of assets and liabilities of undertakings in the

context of resolution. Secondly, this Regulation specifies the methodology for calculating the buffer for additional losses to be included in provisional evaluations. To ensure coherence between those methodologies and considering that those provisions should become applicable at the same time, it is appropriate to include those provisions in a single legislative act.

- (5) This Regulation is based on the draft regulatory technical standards submitted by the European Insurance and Occupational Pensions Authority to the Commission.
- (6) The European Insurance and Occupational Pensions Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Insurance and Reinsurance Stakeholder Group established by Article 37 of Regulation (EU) No 1094/2010.

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purpose of this Regulation the following definitions shall apply:

- (a) ‘entity’ means any of the entities referred to in points (a) to (e) of Article 1(1) of Directive (EU) 2025/1.
- (b) ‘franchise value’ means the net present value of cash flows that can reasonably be expected to result from the maintenance and renewal of assets and liabilities or businesses and includes the impact of any relevant business opportunities, including those stemming from the different resolution actions assessed by the valuer. The franchise value may be higher or lower than the value arising from the contractual terms and conditions of assets and liabilities existing at the valuation date.
- (c) ‘resolution date’ means the date on which the decision to take a resolution action is adopted, pursuant to Article 64 of Directive (EU) 2025/1.

CHAPTER I

General criteria for all valuations

Article 2

General criteria

1. The valuer shall disclose and justify the key assumptions used in the valuation by means of the valuation report referred to in Article 6. Any significant deviation in the valuation from the assumptions used by the entity's management in their valuation of assets and liabilities in the calculation of the entity's own funds and capital requirements shall be supported by the best available information.
2. The valuer shall provide the best point estimate of the value of a given asset, liability, or combinations thereof. In addition to point estimates, the valuer may provide value ranges to reflect uncertainty inherent to point estimates.
3. Criteria laid down in this Regulation for the valuation of individual assets and liabilities of an entity, shall also apply to the measurement of portfolios or groups of assets or combined assets and liabilities, businesses, or the entity considered as a whole, as the circumstances require.
4. The valuer shall subdivide creditors and claimants in classes according to their priority ranking under applicable insolvency law and shall include the following estimates:
 - (a) the value of claims of each class according to the applicable insolvency law and, where relevant and feasible, according to the contractual rights conferred on claimants;
 - (b) the proceeds each class would receive if the entity were wound-up under normal insolvency proceedings;

When calculating the estimates pursuant to points (a) and (b) of the first subparagraph, the valuer may apply the criteria set out in [Article X of Commission Delegated Regulation (EU) xxxx/xxx of [DATE] supplementing Directive (EU) 2025/1 (= EIOPA instrument 14)] of the European Parliament and of the Council with regard to regulatory technical standards specifying the criteria relating to the methodologies for valuation of difference in treatment in resolution as appropriate.

Article 3

Valuation date

The valuation date shall be one of the following dates:

- (a) the reference date as determined by the valuer on the basis of the date as close as possible before the expected date of a decision by the resolution authority to place an entity under resolution, to apply a resolution tool or to exercise a resolution power;
- (b) where a definitive valuation required by Article 25(2) of Directive (EU) 2025/1 is conducted after the resolution action is taken, the resolution date;
- (c) in relation to liabilities arising from derivative contracts, the point in time determined pursuant to [XX of Commission Delegated Regulation (EU) XX (= EIOPA instrument 18)].

Article 4

Sources of information

In addition to the entity's financial statements, regulatory reporting and related audit reports as of a period ending as close as possible to the valuation date, the valuation shall be based on the additional relevant information deemed relevant by the valuer, which may include the following:

- (a) the updated financial statements and regulatory reporting prepared by the entity as close as possible to the valuation date;
- (b) an explanation of the key methodologies, assumptions and judgements used by the entity in order to prepare the financial statements and regulatory reporting;
- (c) data contained in the records of the entity relevant for the valuation of assets and liabilities, including detailed cash flow projections for the calculation of the best estimate and data used for the calculation of the risk margin, and data used to calculate the entity's capital requirements.
- (d) the relevant risk-free interest rate term structure as published by EIOPA in accordance with Article 77e of Directive 2009/138/EC;
- (e) relevant market data;
- (f) conclusions drawn by the valuer from discussion with management and auditors;
- (g) where available, supervisory assessments of the entity's financial condition, including information acquired pursuant to the submission of a recovery plan pursuant to Article 138(2) of Directive 2009/138/EC and a finance scheme pursuant to Article 139(2) of Directive 2009/138/EC;

- (h) industry-wide assessments of asset quality, where relevant to the entity's assets, as well as stress test results;
- (i) valuations of peers, adequately adjusted to capture the entity's specific circumstances;
- (j) historical information, adequately adjusted to eliminate factors that are no longer relevant, and to incorporate other factors that did not affect the historical information;
- (k) trend analyses, adequately adjusted to reflect the entity's specific circumstances; or
- (l) any other information concerning the entity's assets, liabilities and financial position deemed relevant by the valuer.

Article 5

Impact of group arrangements

1. Where the entity is part of a group, the valuer shall take into account the impact that existing contractual intra-group arrangements can have on the value of the assets and liabilities where, on the basis of the circumstances, it is probable that those arrangements will be put into effect. In this context the valuer shall in particular assess the impact of any intra-group reinsurance contracts.
2. The valuer shall only take into account the impact of other formal or informal arrangements within the group where, on the basis of the circumstances, it is probable that those arrangements shall remain in place in the context of a group's stressed financial condition or in resolution.
3. The valuer shall determine whether the resources of an entity within the group are available to meet losses of other group entities.

Article 6

Valuation report

The valuer shall prepare a valuation report to the resolution authority which shall include at least the following elements:

- (a) except when conducting a provisional valuation as provided in Article 25(1) of Directive (EU) 2025/1, the information referred to in points (a) to (c) of Article 24(4) of that Directive;
- (b) except when conducting a provisional valuation as provided in Article 25(1) of Directive (EU) 2025/1, the information referred to in Article 24(5) of that Directive;
- (c) the valuation of the liabilities arising from derivatives carried out in accordance with Commission Delegated Regulation [(EU) XX (= EIOPA instrument 18)];
- (d) a summary of the valuation including an explanation of best point estimate, value ranges and sources of valuation uncertainty;
- (e) an explanation of the key methodologies and assumptions used by the valuer when performing the valuation, how sensitive the valuation is to the choices of methodologies and assumptions

and, where feasible, an explanation of how those methodologies and assumptions differ from those used for other relevant valuations including any preliminary resolution valuations;

- (f) any additional information which in the valuer's opinion would assist the resolution authority or supervisory authority for purposes of Articles 23 to 25 Directive (EU) 2025/1.

CHAPTER II

Specific criteria for the first and second valuation

Article 7

First valuation

1. The first valuation referred to in Article 23(2) of Directive (EU) 2025/1 shall be consistent with the applicable supervisory framework, in particular Article 75 of Directive 2009/138/EC [Solvency II].
2. By way of derogation from paragraph 1, the valuer may use local GAAP, IFRS, or other rules and procedures in accordance with national law to determine if the circumstances defined in Article 19(4)(c) apply. In this case, the valuer shall carefully document and justify in the valuation report referred to in Article 6 the circumstances and the reasons to deviate from paragraph 1.
3. The valuer may use the models used by the entity for the valuation of assets and liabilities for supervisory reporting purposes, including stochastic models used to calculate the value of technical provisions. The valuer shall assess the overall robustness and appropriateness of these models. The valuer shall review the assumptions, data, and expert judgements used by the entity and disregard or adjust them, where the valuer deems appropriate, in particular to inform the determination whether an entity is 'failing or likely to fail', as referred to in Article 19(1), point (a), of Directive (EU) 2025/1.

Article 8

Second valuation

1. For the purpose of the second valuation, as referred to in Article 23(3) of Directive (EU) 2025/1, without prejudice to the valuer's independence, the resolution authority may consult with the valuer in order to identify the range of resolution powers and tools being considered by that authority, including the resolution powers and tools contained in the resolution plan or, if different, any proposed resolution scheme.
2. To ensure a fair, prudent and realistic valuation, the valuer shall, where appropriate and in consultation with the resolution authority, present separate valuations that reflect the impact of a sufficiently diverse range of resolution actions the resolution authority may adopt.
3. The valuer may use the models used by the entity for the valuation of assets and liabilities for supervisory reporting purposes, including stochastic models for the calculation of technical provisions. The valuer shall assess the overall robustness and appropriateness of these models. The valuer shall review and, where appropriate, disregard or adjust all the assumptions, data, and expert judgements used

by the entity that may have a material impact on the valuation, in particular to ensure that all losses are fully recognised at the moment the resolution tools are applied.

4. The valuer shall assess whether the valuation parameters and methodologies prescribed pursuant to Article 75 of Directive 2009/138/EC are appropriate given the objectives of the valuation set out in Article 23(3) of Directive (EU) 2025/1 and the specific circumstances related to the resolution tools used. The valuer shall conduct this assessment, in particular, if the application of the sale-of-business tool, the bridge undertaking tool and the asset and liability separation tool is considered, which involve the transfer of an insurance portfolio or transfer of instruments of ownership of an insurance undertaking. For the sale-of-business tool, this assessment shall also be made to inform the resolution authority's understanding of what constitutes commercial terms for the purposes of Article 31 of Directive (EU) 2025/1.

5. Where capital instruments or other liabilities are converted to equity, the valuation shall provide an estimate of the post-conversion equity value of new shares transferred or issued as consideration to holders of converted capital instruments or other creditors. That estimate shall form the basis for the determination of the conversion rate or rates pursuant to Article 37 of Directive (EU) 2025/1.

Article 9

Adjustments for resolution tools involving a transfer

1. Where the resolution authority applies resolution tools that involve the transfer of assets, rights or liabilities or the transfer of instruments of ownership as considered in paragraph 5 of Article 8 of this Regulation, except for the transfer referred to in Article 34(1) of Directive 2025/1/EU, the valuation shall correspond to the proceeds that can reasonably be expected in the prevailing market conditions under the specific circumstances of the sale or transfer.

2. The proceeds shall include the costs incurred for the sale or transfer, proceeds on the assets, liabilities and rights before the sale or transfer is concluded and the value of any compensation received in the sale or transfer.

3. Where appropriate, having regard to the resolution actions to be taken, the valuer may determine the value as defined in paragraph 1 by applying a reduction for a potential accelerated sale discount to the observable market price of that sale or transfer. To determine the value of assets which do not have a liquid market, the valuer shall consider observable prices on markets where similar assets are traded or valuation model calculations using observable market parameters, with discounts for illiquidity reflected as appropriate.

4. With respect to a situation referred to in paragraph 1, the valuer shall have regard to factors that might impact the valuation, including the following:

- (a) the valuations of assets and liabilities observed in similar transactions, adequately adjusted to take into account differences in the business model and in the financial structure of the parties of those transactions;
- (b) advantages or disadvantages of a particular transaction that are specific to the parties involved or to a subset of market participants;

- (c) particular attributes of an asset or insurance portfolio that may only be relevant to a potential purchaser, or to a subset of market participants;
- (d) the likely impact of expected sales on the entity's franchise value;
- (e) the timing of the cash flows generated by the assets, liabilities and rights transferred or sold and their risk profile;
- (f) the financing costs of potential new owners.

5. When assessing the entity's value for the purposes of the sale-of-business tool or the bridge undertaking tool, the valuer shall take into account reasonable expectations regarding the entity's franchise value. Such expectations shall concern changes in the valuation resulting from a renewal of assets, from a refinancing of an open portfolio, or from a continuation or resumption of business in the context of the resolution actions.

CHAPTER III:

Areas requiring particular attention in the first and second valuation

Article 10

Areas requiring particular attention in the valuation

The valuer shall particularly focus on areas subject to significant valuation uncertainty which have a significant impact on the overall valuation. For those areas the valuer shall provide the results of the valuation in the form of best point estimates and, where appropriate, supplemented with value ranges, as laid down in Article 2(2). The areas requiring particular attention shall include:

- (a) technical provisions, including the robustness of models and key assumptions used to project cash flows for the calculation of the best estimate and the models used for the calculation of the risk margin;
- (b) investments, where there is no active or sufficiently liquid market to provide a reliable market price, in particular loans, bonds, private equities and real estate;
- (c) reinsurance settlements based on active reinsurance treaties and reinsurance programs, in particular reinsurance recoverables, amounts of which are expected from reinsurance contracts and special purpose vehicles;
- (d) intangible assets, where the value may depend on subjective judgement and is derived from the same or similar assets;
- (e) items including pension assets and liabilities and deferred tax items;
- (f) legal disputes and regulatory actions, the expected cash flows of which may be subject to varying degrees of uncertainty relating to their amount and/or timing.

Article 11

Factors affecting the valuation

The valuer shall take into account general factors that may affect the key assumptions on which the values of assets and liabilities in the areas referred to in Article 10 are based, including the following factors:

- (a) the economic and industry circumstances affecting the entity, including relevant market developments;
- (b) the entity's business model and changes in its strategy, including any changes in the company's policy regarding the payment of future discretionary benefits;
- (c) the entity's selection criteria for assuming risk, including its underwriting policies for insurance contracts;
- (d) circumstances affecting the parameters used to determine the solvency capital requirements;
- (e) circumstances that could lead to an increase in lapses or policyholders making use of contractual rights to suspend premium payments;
- (f) the impact of the entity's financial structure on the capacity of the entity to retain assets for the expected holding period and the entity's ability to generate predictable cash flows;
- (g) general or entity-specific liquidity concerns.

CHAPTER IV:

Methodology for calculating a buffer in case of a provisional valuation

Article 12

Methodology for calculating and including a buffer for additional losses

1. To address the uncertainty of provisional valuations conducted in accordance with Article 23 of Directive (EU) 2025/1, the valuer shall include a buffer in the valuation to reflect facts and circumstances supporting the existence of additional losses of uncertain amount or timing not yet recognised in the balance sheet. The buffer shall be adequately explained and justified by the valuer, including information on the assumptions supporting the calculations.
2. In order to determine the size of the buffer, the valuer shall identify factors that may affect the provisional valuation as a result of resolution actions likely to be adopted.
3. For the purposes of paragraph 2, the valuer may extrapolate losses estimated for a part of the entity's balance sheet to its remainder. Where available, average losses estimated for balance sheet items of peer competitors may also be extrapolated, subject to the necessary adjustments for differences in the business model and financial structure.

Article 13

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

[For the Commission

The

President]

[For the Commission

On behalf of the President]

[Position]

ANNEX I: IMPACT ASSESSMENT

OBJECTIVES

In accordance with Article 29 of the EIOPA Regulation, EIOPA carries out, where relevant, an analysis of the costs and benefits during the policy development process. The analysis of costs and benefits is undertaken according to the 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 measurement basis for the purposes of Valuation 1 (conditions of resolution in Article 19 (1) IRRD) (policy issue A) and the calculation of the buffer for additional losses in the case of a provisional valuation (policy issue B) and has been completed by EIOPA on a qualitative basis.

In drafting the RTS on content of the (group) resolution plans, EIOPA has ensured alignment with the general objectives of the Directive (EU) 2025/1, as agreed by the legislators.

These general objectives are to enable the resolution authorities to:

- Enhance preparation, coordination and cooperation;
- Meeting the resolution objectives;
- Ensure a proper functioning of the internal market and ensuring level-playing field.

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

- an orderly resolution of (re)insurance undertakings and groups by requiring that the basis for valuation is consistent and sound facilitating an effective commencement of the resolution process and implementation of the resolution tools under various resolution scenarios;
- an effective and efficient policyholder protection in resolution and/or liquidation with a sufficient level of flexibility for resolution authorities which allows for the adjustment of their valuation to the specificity of national markets, ensuring a consistent and sound basis for the resolution decision and the implementation of specific resolution tools;
- a level playing field through common minimum harmonisation rules with regard to the valuation necessary for the determination whether the conditions of resolution are met and to inform the application of specific resolution tools.

POLICY ISSUES

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

The policy issue concerns whether Valuation 1 should strictly follow the Solvency II valuation framework, or whether limited deviations may be permitted to reflect national insolvency provisions

relevant for the determination of balance-sheet insolvency under Article 19(4)(c) IRRD. Specifically, the issue concerns whether and, if yes, to what extent the valuation can deviate from the Solvency II methodology. For example, a deviation could be allowed to take place in Member States where – in addition to Solvency II rules – also local accounting rules can be a basis to determine the conditions for resolution are met. In this regard, there are three possible policy options that could be selected:

- Policy option A.1: Strict consistency with SII
- Policy option A.2: Fair and realistic basis to ensure all losses are recognized
- Policy option A.3: Consistency with SII, with option to deviate for the purpose of Article 19(4)(c)

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

The policy issue is about the calculating a buffer for additional losses in the case of provisional valuation. Specifically, it concerns whether the buffer that is calculated to account for the uncertainty inherent in a provisional valuation may be derived from an extrapolation of assets and liabilities of similar nature, or whether a complete valuation of all assets and liabilities is required.

This issue is particularly relevant in time-critical resolution scenarios, where the availability of complete and reliable data may be constrained and swift decision-making is required

More concretely, there are two possible policy options that could be selected:

- Policy option B.1: Require complete valuation for calculating buffer
- Policy option B.2: Allow valuer to extrapolate losses for calculating buffer

POLICY OPTIONS

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

Policy option A.1: Strict consistency with SII

This option prescribes that valuation should be consistent with Solvency II, “The valuation [...] shall be consistent with the applicable supervisory framework, in particular Article 75 of [Solvency II].“. This applies for all failing or likely to fail (FOLTF)-scenarios under Article 19(4) IRRD, including the scenario where assets of the undertaking will, in the near future, be less than its liabilities (i.e. negative NAV-scenario).

Policy option A.2: Fair and realistic basis to ensure all losses are recognized

This option allows for the possibility to use other measurements as a basis, e.g. local GAAP or IFRS, provided that the valuation is based on fair and realistic assumptions and seek to ensure that losses under the appropriate scenario are fully recognised.

Policy option A.3: Consistency with SII, with option to deviate for the purpose of Article 19(4)(c)

This option represents a compromise approach. Solvency II remains the default valuation framework, where deviations, e.g. based on local GAAP, IFRS, or national insolvency rules, are permitted only to assess if the circumstances of article 19(4)(c) IRRD are met (negative NAV-scenario).

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

Policy option B.1: Require complete valuation for calculating buffer

This option prescribes that to address the uncertainty of a provisional valuation and calculate a buffer for additional losses, a complete valuation of the entity's assets and liabilities is required.

Policy option B.2: Allow valuer to extrapolate losses for calculating buffer

This option prescribes a more flexible approach. For the purpose of calculating a buffer for additional losses in the case of a provisional valuation, the valuer is allowed to extrapolate losses from part of the entity's assets or those of peer competitors.

IMPACT OF THE POLICY OPTIONS

In assessing the impact of the policy options, special attention is devoted to the potential areas or functions where the costs could arise as a result of the different policy options. A more detailed estimation of the (monetary) costs would depend on several variables, such as the company-specific process and procedures, the size and nature of the entity and the applicable resolution framework at national level, including the potential contribution to financing arrangements.

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

Policy option A.1: Strict consistency with SII		
Costs	Policyholders	Potential ineffectiveness of the valuation approach where jurisdiction-specific insolvency or other regulatory provisions are not covered. This may render the resolution more burdensome or costly, at the potential expense of the policyholders due to additional resolution expenses incurred by the resolution authority/undertaking.
	Industry	Not being able to refer to local accounting rules may result in costs, when those rules relate to national specificities which imply a more favorable treatment as compared to the SII framework. For example, there could be a risk of earlier FOLTF-determination in Member States using local accounting rules, as

		SII valuation can be 'stricter', depending on specific circumstances.
	Resolution authorities	Authorities used to local accounting rules need to adapt their valuation practice for failing undertakings. However, this is only limited as all authorities are used to SII for prudential supervision.
	Other (e.g. Independent valuer)	Valuers experienced with local accounting rules need to adapt to full SII based framework.
Benefits	Policyholders	Less burden for the undertaking in terms of implementation, which limits overhead costs. If not possible to retrieve from the failing insurer, these costs could ultimately be translated to policyholders of other undertakings as a result of the levies under the applicable financing arrangements.
	Industry	Harmonized rules across Member States aligned with supervisory practices and reporting as well as IRRD reporting provides clarity in terms of several aspects: i) expectations for data provision requests. This saves on operational costs e.g. regarding data provision and maintenance by the IT department or accounting by the Finance department. ii) legal basis of valuation, which reduces costs for internal or external legal consultation and review.
	Resolution authorities	Equal practices across Member States, increasing opportunities to share best practices and cooperate more efficiently in cross-border cases.
	Other (e.g. Independent valuer)	Easier to perform valuations overtime as practices are the same in all Member States and more relevant case experience can be gained faster.

Policy option A.2: Fair and realistic basis to ensure all losses are recognized		
Costs	Policyholders	Based on higher costs for independent valuer as result of the elements described below, a slightly higher write-down of policyholders might be necessary. More flexibility may increase costs (incl. legal fees) to ensure clarity of the terms. If not possible to retrieve from the failing insurer, these costs could ultimately be translated to

		policyholders of other undertakings as a result of the levies under the applicable financing arrangements.
	Industry	<p>Less clarity on what valuer might require in terms of cooperation and data provision, leading to more unexpected requests to the undertaking.</p> <p>Misalignment with supervisory practices and reporting and misalignment with IRRD reporting causes</p> <p>(i) higher operational costs, e.g. for data provision and maintenance by the IT department or accounting by the Finance department of the firm.</p> <p>(ii) higher costs or fees for internal or external legal consultation and review.</p> <p>These costs may have to be born by the entity under resolution, depending on the financing arrangement.</p>
	Resolution authorities	<p>In cross-border cases, fragmentation in measurement bases between Member States, can lead to legal and operational issues between NRAs with regard to the FOLTF-determination.</p> <p>More rules to take into account for provisional valuation, dependent on the national insolvency laws, needing to consider still both SII and the other accounting rules to see whether deviation is warranted.</p> <p>More requirements for independent valuer, leading to potentially higher procurement costs, as independent valuer must be able to conduct valuation on different measurements bases or two separate independent valuers need to be procured.</p> <p>Least convergent valuation approach, which can be to the detriment of resolution authorities seeking (legal) certainty , as they may seek further legal advice.</p>
	Other Independent valuer (e.g.)	More expertise required for valuer, as compared to purely SII-based valuation, so in order to get procured, the valuers need to comply with a higher standard of expertise.
Benefits	Policyholders	Less risk of inappropriate valuation approach as national specificities can be covered. This could reduce operational, legal/compliance costs related to ineffectiveness of the clause, which may be at the expense of the policyholder, depending on the financing arrangement.
	Industry	Adherence to local accounting rules may be beneficial and save costs and time, when those rules relate to national specificities that are treated differently or stricter in the SII framework.

		For example, local accounting rules might result in more favorable outcome of valuation, leading to a potentially later determination of FOLTF.
	Resolution authorities	The measurements basis is more adjusted to existing practices in the specific Member States for insolvency cases, meaning relevant experience with local practice can be applied still.
	Other (e.g. Independent valuer)	The measurements basis is more adjusted to existing practices in the specific Member States for insolvency cases, meaning relevant experience with local practice can be applied still.

Policy option A.3: Consistency with SII, with option to deviate for the purpose of Article 19(4)(c)		
Costs	Policyholders	Based on slightly higher operational costs for the independent valuer a slightly higher write-down of policyholders might be necessary, but less so than compared to policy option A.2, because with A.2 flexibility and subsequent complexity of the measurement is highest. With option A.3 this is limited to the purposes of Art. 19(4)c, because Solvency II has to be used as measurement basis for the other conditions listed under Art. 19, i.e. a, b, d and e.
	Industry	Less clarity on what valuer might require in terms of cooperation and data provision, leading to more unexpected requests, but only for the purposes of Art. 19(4)c. Therefore, the unclarity is less likely than under policy option A.2, as Solvency II has to be used as measurement basis for the other conditions listed under Art. 19, i.e. a, b, d and e.
	Resolution authorities	In cross-border cases, fragmentation in measurement bases between Member States for purposes of Art. 19(4)c, can lead to legal and operational issues between NRAs with regard to the FOLTF-determination. More rules to take into account for provisional valuation, dependent on the national insolvency laws, needing to consider still both SII and the other accounting rules to see whether deviation is warranted, but only for the purposes of Art. 19(4)c. Therefore, the additional burden is limited compared to under policy option A.2, as Solvency II is the only measurement basis to be used for the other conditions listed under Art. 19, i.e. a, b, d and e.

		More requirements for independent valuer, leading to potentially higher procurement costs, as independent valuer must be able to conduct valuation on different measurements bases or two separate independent valuers need to be procured. but only for the purposes of Art. 19(4)c, so the cases this happens are less common.
	Other Independent valuer) (e.g. Independent valuer)	More expertise required for valuer, as compared to purely SII-based valuation, so in order to get procured, the valuers need to comply with a higher standard of expertise.
Benefits	Policyholders	Compared to A.1: potentially reduced costs which would have arisen if Solvency II valuation approach was inappropriate, given national specificities related to the purpose of Article 19(4)(c)
	Industry	From the perspective of the failing insurer, local accounting rules might result in more favorable outcome of valuation, leading to a potentially later determination of FOLTF, but less so than compared policy option A.2
	Resolution authorities	The measurements basis is more adjusted to existing practices in the specific Member States for insolvency cases, meaning relevant experience with local practice can be applied still, but to a lesser extent compared to A.2, as only for the purposes of Art. 19(4)c.
	Other Independent valuer) (e.g. Independent valuer)	The measurements basis is more adjusted to existing practices in the specific Member States for insolvency cases, meaning relevant experience with local practice can be applied still, but to a lesser extent compared to A.2, as only for the purposes of Art. 19(4)c.

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

Policy option B.1: Require complete valuation for calculating buffer		
Costs	Policyholders	Higher costs of contracts with independent valuer might result in slightly higher write-down of policyholders
	Industry	Higher operational costs for failing insurer, e.g. for data provision and maintenance by the IT department or accounting by the Finance department of the firm, as complete valuation has to be performed.

		Potentially higher costs for other industries, as the financing arrangement might be required to finance the payment of the independent valuer.
	Resolution authorities	Significantly increased costs and non-monetary resources (in particular, time) required for calculating the buffer for additional losses in a provisional valuation process, potentially delaying significantly resolution actions by resolution authorities
	Other (e.g. Independent valuer)	A complete valuation leads to more work for the independent valuer, as resolution authorities might be inclined to outsource this, which needs to be performed relatively swiftly. Despite monetary benefits, valuers need to be able to provide this service in all cases of failure.
Benefits	Policyholders	Lower likelihood of significant changes in final valuation compared to provisional valuation, including with regard to the ultimate write-down taking place on policies.
	Industry	Clarity for insurers that in case of failure in all cases a complete valuation will take place for calculating the buffer, meaning they can prepare in time the necessary work in terms of data provision, accounting and general cooperation with the resolution authority/independent valuer.
	Resolution authorities	Potentially reducing the degree of uncertainty related to additional buffers for provisional valuations by requiring a granular valuation of the entity's assets.
	Other (e.g. Independent valuer)	A complete valuation requirement results in more business (i.e. larger scope of valuation contracts for the purposes of resolution) for the independent valuer as this requirement would be there in all cases of resolution.

Policy option B.2: Allow valuer to extrapolate losses for calculating buffer		
Costs	Policyholders	More flexibility may increase costs (incl. legal fees) to ensure clarity of the terms. These costs may in turn affect policyholders as beneficiaries of cost-efficient resolution activities.
	Industry	Increased unclarity on whether the information available to the resolution authority or valuer is sufficient and more cooperation through data sharing might be required.

	Resolution authorities	Increased risk of additional losses estimated in provisional valuation process not being fully accurate.
	Other (e.g. Independent valuer)	More limited scope of the valuation contracts, leading to less business.
Benefits	Policyholders	Lower costs of contracts with independent valuer might result in slightly lower write-down of policyholders
	Industry	Lower operational costs for failing insurer, e.g. for data provision and maintenance by the IT department or accounting by the Finance department of the firm, as complete valuation has generally not to be performed. Potentially lower costs for other insurers compared to B.1, as the financing arrangement would not be required to finance the payment of the independent valuer.
	Resolution authorities	Accelerated process of valuation and consequently chance for quicker decision making and actions by resolution authorities, contributing to improving effectiveness of resolution framework.
	Other (e.g. Independent valuer)	Allowing for sufficient consideration of potential additional losses in provisional valuation process to facilitate prudent valuation of entity's balance sheet.

COMPARISON OF POLICY OPTIONS

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

EFFECTIVENESS (0,+,++)			
	Orderly resolution of undertakings by requiring consistent and sound basis for Valuation 1 and 2 under various scenarios	Aligning triggers for resolution with insolvency, by allowing for adjustment of the valuation to the specificities of national legislation	Increased level playing field through common minimum harmonisation rules with regard to Valuation 1 and 2
Policy option A.1	+	0	++
Policy option A.2	0	++	0
Policy option A.3	++	+	+

EFFICIENCY (0,+,,++)			
	Orderly resolution of undertakings by requiring consistent and sound basis for Valuation 1 and 2 under various scenarios	Aligning triggers for resolution with insolvency, by allowing for adjustment of the valuation to the specificities of national legislation	Increased level playing field through common minimum harmonisation rules with regard to Valuation 1 and 2
Policy option A.1	++	0	+
Policy option A.2	0	+	0
Policy option A.3	+	++	++

Considering the (monetary) costs for undertakings, being consistent with SII may seem the most cost efficient version, as it requires less operational expense and legal interpretation. However, a too restrictive approach may hamper the effective resolution, adding potential (legal, operational) costs to the resolution activity, which may be at the expense of the entity under resolution or the resolution authority, depending on the financing arrangement. This may eventually affect the protection of the policyholders of the entity under resolution, also in monetary terms.

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

EFFECTIVENESS (0,+,,++)			
	Orderly resolution of undertakings by requiring consistent and sound basis for Valuation 1 and 2 under various scenarios	Aligning triggers for resolution with insolvency, by allowing for adjustment of the valuation to the specificities of national legislation	Increased level playing field through common minimum harmonisation rules with regard to Valuation 1 and 2
Policy option B.1	++	+	++
Policy option B.2	+	++	+

EFFICIENCY (0,+,,++)			
	Orderly resolution of undertakings by requiring consistent and sound basis for Valuation 1 and 2	Aligning triggers for resolution with insolvency, by allowing for adjustment of the valuation to the	Increased level playing field through common minimum harmonisation rules with regard to Valuation 1 and 2

	under various scenarios	specificities of national legislation	
Policy option B.1	+	0	0
Policy option B.2	++	+	++

Considering the (monetary) costs for undertakings, taking a more flexible approach by being able to extrapolate losses from part of the entity’s assets and liabilities for calculating the buffer seems the most cost efficient approach, as it requires a less burdensome exercise. At the same time, a too flexible approach may hamper its accurateness, adding potential costs later, in case the buffer turns out to be too small or too large. This risk, however, seems to be limited.

This may be at the expense of the entity under resolution or the resolution authority, depending on the financing arrangement. This may eventually affect the protection of the policyholders of the entity under resolution, also in monetary terms.

PREFERRED OPTION

Based on the impact assessment, **policy option A.3** is selected, striking a balance between the principle of a Solvency II-consistent valuation, while allowing for a targeted deviation for the purposes of determining balance sheet insolvency in accordance with Article 19(4)(c) IRRD.

Policy option A.1 provides maximum harmonization between Member States as it is based on Solvency II, but lacks flexibility to take into account local accounting rules or national insolvency law.

Policy option A.2, on the other hand, provides an extensive grade of flexibility. Thus, it risks fragmentation of practices across Member States, leading to legal and operational issues between NRAs with regard to the FOLTF-determination.

Policy option A.3 contributes more to harmonisation than policy option A.2, with targeted flexibility reflecting national specificities related to Article 19(4)(c), striking a balance between the two other options.

Regarding Policy issue B, based on the impact assessment, it was decided to select the compromise solution of **policy option B.2** striking a balance between appropriate accuracy on the one hand, while being sufficiently cost effective and fast on the other.

Furthermore, Policy option B.1 provides more clarity and a very accurate result. However, it does not grant the flexibility needed to provide provisional valuation in context of resolution.

Policy option B.2. allowing for extrapolation is a lot faster than producing a complete valuation from scratch. As time is a material factor in provisional valuations, the increased efficiency and cost effectiveness of the extrapolation seems to weigh stronger than the limited risk of inaccuracy.

This option also aligns with the idea of 25(2) IRRD that “authorities that take resolution action on the basis of a provisional valuation shall ensure that a definitive valuation is carried out as soon as

possible.” In other words, a definitive valuation, which does not rely on extrapolation, will follow any provisional valuation and thus may account for any potential inaccuracy.

OVERVIEW OF QUESTIONS FOR CONSULTATION

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

PRIVACY STATEMENT

▶ Introduction

1. The European Insurance and Occupational Pension authority (EIOPA) is committed to protecting individuals' personal data in accordance with Regulation (EU) 2018/1725³ (further referred as "the Regulation").
2. In line with Articles 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 EUSurvey⁴, 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, 29 and 71 thereof
 - EIOPA's Public Statement on Public Consultations
 - EIOPA's Handbook on Public Consultations

³ 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.

⁴ For more information on the processing of personal data in EUSurvey, please see the [dedicated privacy statement](#).

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.

▶ **Controller of the personal data processing**

7. The (internal) controller responsible for the processing of personal data is the Head of EIOPA's Risks and Financial Stability Department.
8. Address and email address of the controller:

Westhafen Tower, Westhafenplatz 1
60327 Frankfurt am Main
Germany
DataController@eiopa.europa.eu

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

9. Westhafenplatz 1, 60327 Frankfurt am Main, Germany
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).

▶ **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 the internal Data Controller (DataController@eiopa.europa.eu) or EIOPA's DPO (dpo@eiopa.europa.eu).

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