



## **2 Procedure**

The Commission requests this technical advice from EIOPA in the context of Article 98 of IRRD. The Commission reserves the right to revise and/or supplement this formal mandate. The European Parliament and the Council shall be duly informed about this mandate.

The technical advice received on the basis of this mandate will neither prejudge the content of the report requested from the Commission nor any Commission decision with regard to a legislative proposal.

In accordance with the established practice, the Commission will continue to consult, in parallel, experts appointed by Member States and other stakeholders.

## **3 EIOPA is requested to provide technical information and advice on the following items**

In order for the Commission to assess the state of play of IGS in the Member States, EIOPA is requested to provide an overview of IGS in the EU, both existing IGS as well as IGS that are currently being established. In particular, EIOPA is requested to provide information on the type of insurance covered, the coverage level and the triggers for the use of IGS. Furthermore, EIOPA is requested to provide information on the function, geographical coverage and the funding of IGS. Finally, EIOPA is requested to report on the reasons for Member States to introduce IGS and on the consequences of their introduction on the relevant insurance market. IGS whose sole purpose is to compensate policyholders under Directive 2009/103/EC<sup>9</sup> (Motor Insurance Directive) should be excluded from the stock take or should be clearly identifiable.

In order for the Commission to discuss and assess policy options regarding minimum common standards for IGS, it is key to have an overview of the insurance market and the occurrence of insurer failures and near-failures in the EU, in particular from a cross-border perspective. Therefore, EIOPA is requested to provide quantitative and, where relevant and possible, qualitative information on the most recent situation and the development of the insurance sector by Member State over time, by type of insurance and by domestic and cross-border (where possible), split between freedom-of-services and freedom-of-establishment) activities. Furthermore, EIOPA is requested to update the information published in the 2018 and 2021 reports on failures and near-misses in the insurance sector, with particular attention to and to the extent possible on: i. losses borne by policyholders, ii. the occurrence of cross-border issues, and iii. the role of existing IGS to mitigate these losses and cross-border issues. EIOPA is also requested to differentiate, where possible, between failures and near-misses related entirely or for a significant part to Motor Third-Party Liability (MTPL) insurance and non-MTPL insurance, and to describe recent cases of insurer failures with a significant cross-border impact. The reference time period over which such differentiation is applied (between MTPL cases and other type of cases) may be shorter (e.g. limited to five years) than the reference time period for the provision of the quantitative

---

<sup>9</sup> Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability.

information on the development of the insurance sector over time, if it would be more challenging, for EIOPA, to collect such data.

In its 2020 Solvency II Opinion, EIOPA advised on the appropriateness of and the minimum principles that should underlie harmonised national IGS at EU level. EIOPA is requested to supplement this advice with targeted updates to reflect developments that have taken place since the Opinion was published, in particular in the areas affected by the introduction of IRRD. Regarding its earlier advice on eligible policies EIOPA is requested to supplement it with information on the level of standardization of these policies across the EU, their cross-border relevance in view of the single market for insurance, and whether coverage of these policies by IGS would have a significant economic impact in terms of increased protection for policyholders and additional costs for the insurance sector, allowing the Commission to balance different angles on IGS harmonisation. Furthermore, EIOPA is requested to provide advice on the advantages and disadvantages of generic, all-encompassing IGS covering all life insurance policies, non-life insurance policies or both and specific, more focussed IGS covering only one type or a selection of types of policies.

Regarding the reduction of fragmentation in the single market for insurance, EIOPA is requested to advise on how minimum common standards for IGS could result in the insurance sector offering more services across the EU, and how consumers could benefit from increased choice of insurance services and higher protection in case of failure – where necessary and possible distinguishing across types of insurance policies. The potential impact can be demonstrated with several case studies, allowing to have a good representation of the situation across Member States.

Regarding funding, EIOPA indicated in its 2020 Solvency II Opinion that further work would be needed in relation to specific situations where a pure ex post funding model could potentially work, subject to adequate safeguards. EIOPA is, therefore, requested to provide advice under which specific situations a pure ex post model could work and how such a model with adequate safeguards could look like, under the assumption of a harmonised ‘home country principle’ to geographical coverage. Under the same assumption, EIOPA is also requested to advise how a combined funding model, mainly based on ex post funding but incorporating some ex-ante funding, could be set up, where necessary differentiating across types of insurance policies.

Considering that IRRD entered into force on 28 January 2025 and will apply as of 29 January 2027, EIOPA is requested to provide advice on the expected interaction between IRRD and potential minimum common standards for IGS in the EU, in particular regarding the institutional setup of national resolution authorities and IGS, the different functions of IGS, the manner in which IGS would share losses in resolution, and the IRRD requirement to establish financing arrangements.

Finally, EIOPA is requested to provide advice on the appropriateness of minimum common standards for IGS regarding their operational functioning. In particular, EIOPA is requested to assess the appropriateness of minimum common standards with regard to the trigger moment(s) for IGS activation, the time for the submission of claims and the deadline for payouts to policyholders in compensation cases, the conditions and timing for a continuation of policies by

IGS, and the place of IGS in the insolvency ranking. EIOPA is expected to draw lessons from the overview of existing IGS, and present the advice as a timeline with key moments.