

FINAL REPORT

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on the Guidelines to specify further the criteria
for the identification of critical functions

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EXECUTIVE SUMMARY

INTRODUCTION

On 29 April 2025, EIOPA launched a public consultation on Guidelines to specify further the criteria for the identification of critical functions. This final report sets out the final text of the Guidelines including an impact assessment and a feedback statement on the public consultation.

CONTENT

These Guidelines are developed in line with the mandate conferred to EIOPA by the Directive (EU) 2025/1 (“IRRD”)¹, to further specify the criteria for the identification of critical functions. In line with Article 18, (2), point (c) of the IRRD, one of the resolution objectives is to ensure the continuity of critical functions. The identification of critical functions is therefore a key element in the process of resolution planning. These Guidelines provide further guidance, including criteria, for assessing the criticality of a function. Article 25(2) of the IRRD provides the definition of critical functions. The structure of these Guidelines builds on the elements provided in this definition and includes a section on general elements as well as 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 a reasonable timeframe.

In developing 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), with the aim to ensure consistency in the approach and to promote common understanding of the key concepts and principles employed in the identification of critical functions.

PUBLIC CONSULTATION

EIOPA conducted a public consultation on the Guidelines between 22 April 2025 and 31 July 2025. A stakeholder event was held on 27 June 2024 to discuss the consultation paper. Seventeen stakeholders provided feedback on the consultation paper. Based on the stakeholder feedback, the Guidelines were refined, without changing the general approach set out in the consultation paper.

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.

BACKGROUND AND RATIONALE

THE INSURANCE RECOVERY AND RESOLUTION DIRECTIVE (IRRD)

Directive (EU) 2025/1 (“IRRD”) entered into force on 28 January 2025. The IRRD recognizes that the disruption of a critical function can have a severely negative impact on policyholders, beneficiaries and injured parties, the financial system or the real economy in one or more Member States, including impact from a systemic disruption or a loss of general confidence in the provision of insurance services. One of the resolution objectives is to ensure the continuity of the critical functions of a failing/likely to fail undertaking, while protecting the collective interest of policyholders, beneficiaries and claimants. The identification of critical functions is an important part of resolution planning as it informs the scope of resolution planning as well as the outcome of the public interest assessment (PIA). This identification process is the responsibility of the resolution authorities and should be carried out as specified in Article 9(2) of the IRRD.

MANDATE FOR GUIDELINES

In accordance with Article 9 (9) of the IRRD, these Guidelines shall specify further the criteria for the identification of critical functions.

APPROACH TO THE GUIDELINES

The Guidelines are not meant to provide a fully prescriptive assessment process. Instead, they specify factors to be considered by resolution authorities in the assessment process, *inter alia* when assessing the inability to provide a function, the likelihood of a significant impact on the financial system or the real economy, and when assessing the substitutability at a reasonable cost and in a reasonable time. When assessing the inability to provide a function, resolution authorities might assume that the function stops completely – default option (“complete stop”) or, under certain conditions, assume that the function is still provided but no longer to a comparable extent, under comparable conditions or with comparable quality (“partial stop”).

The “complete stop” and “partial stop” are to be seen as assumptions used as inputs to the analysis of the impact of the inability to provide a function. The question whether a certain function is critical should be distinguished from the question whether the continuity of a critical function is ensured in case of failure.

The Guidelines includes a non-exhaustive and non-binding list of potential critical functions, that may potentially be eligible for criticality in one or more insurance markets. This list is provided in order to serve as a reference for resolution authorities when deciding whether an insurance or reinsurance undertaking provides a critical function.

It has been compiled based on the current experience of some resolution authorities and it is inspired from the work of international bodies, such as the IAIS and FSB, but also aims to align with the Solvency II framework.

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)² 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 supervision³, 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 a reasonable time. In these sections the Guidelines also cover some firm-specific factors which are relevant for the impact assessment or substitutability analysis.

² 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).

² 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).

³ ³ Bolder, Simpler, Faster: EIOPA’s views for better regulation and supervision

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/EU⁴ 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.

⁴ 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 .

EXPLANATORY TEXT

Guideline 1 – Scope of potential critical functions

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.

1. No function provided by an insurance or reinsurance undertaking to third parties qualifies automatically as critical function as defined in Article 2(25) IRRD.
2. Resolution authorities perform their own assessments to determine whether any or which of these functions fulfill the criteria for criticality, as defined in Article 2(25) of the IRRD.
3. Specific features at national level and/or local insurance market, individual insurer specificities and the assessment methodology of the resolution authorities, may increase the chances that the conditions set out in Article 2(25) IRRD are met. Such characteristics include, but are not limited to coverage mandated by law, existence of long-term liabilities/guarantees, certain types of third parties to which the function is provided and the fact that they are the precondition for certain economic activities.

4. The list below is a non-exhaustive list of economic functions that may potentially be eligible for criticality if for some insurers, in one or more insurance markets. It has been compiled based on the current experience of some resolution authorities and is provided, for illustrative purposes only.
5. Resolution authorities may decide not to use the list, for example if they conclude that it does not reflect the specific features of their market. Functions not included in the list below can still qualify as critical.
6. The list is broken down by lines of business and products. The names of these lines of business and products strive to follow the classes of insurance as defined in Annex I and Annex II of the Solvency II Directive, however in some instances business terminology prevails.

(1) Lines of business and products related to Life insurance:

- Annuities
- Index-linked and unit-linked insurance
- Insurance with profit participation
- Life insurance as defined under Class I of Annex II of the Solvency II Directive, *inter alia*:
 - Endowments
 - Permanent life insurance with or without a savings component
 - Term life insurance
- Other life insurance, such as:
 - Life insurance contracts securing a mortgage loan
 - Long-term savings products of a retirement nature
 - Pension closeout
 - Supplementary insurance contracts underwritten in connection with life assurance

(2) Lines of business and products related to Non-life insurance:

- Accident (including industrial injury and occupational diseases):
 - Emergency medical expenses (e.g. travel insurance)
 - Workers' compensation insurance
- Health Insurance, *inter alia*:
 - Long-term care insurance
 - Long term disability/loss of earning capacity
 - Mandatory health coverage or medical coverage
- Assistance insurance
- Credit and suretyship insurance
 - Credit default and insolvency insurance
 - Export credit insurance
 - Instalment credit insurance
 - Mortgage insurance
 - Other insurance products with credit component, such as:
 - Captive/fronting business insurance

- Political risk insurance
- Suretyship/ bonding insurance
- Fire, natural forces and Other Damage to Property Insurance
 - Agricultural insurance
 - Crop insurance
 - Multi-risk agricultural insurance
 - Construction insurance
 - Fire insurance (as a precondition for mortgage loan/security)
 - Insurance related to natural disasters and environmental damage, such as:
 - Building, flood, or earthquake risk coverage
- General liability, such as:
 - Construction liability insurance
 - Insurance for legal professionals
 - Medical liability insurance
 - Professional indemnity liability (other regulated professional liability)
 - Product liability insurance
 - Public liability insurance
- Marine, aviation and transport insurance, including related liability insurance
 - Aviation insurance, including aircraft liability
 - Marine insurance, including liability for ships
 - Transport insurance
- Miscellaneous financial losses, such as:
 - Income protection insurance
- Motor vehicle liability

(3) Lines of business and products related to reinsurance, such as:

- Facultative or treaty reinsurance
- Financial (re)insurance (Insurance of settlements between counterparties)

ANNEX 1: IMPACT ASSESSMENT

OBJECTIVES

In accordance with Article 29 of the EIOPA Regulation, EIOPA carries out, where relevant, analyses of costs and benefits during the policy development process. The analysis of costs and benefits is undertaken according to an 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 assumptions used for the assessment of the impact of the inability to provide a function (policy issue A). The impact assessment is based on a qualitative assessment performed by EIOPA.

In drafting these Guidelines, EIOPA sticks to general objectives of the IRRD, as agreed by the legislators.

These general objectives are to enable the authorities to:

- Protect the collective interest of policyholders, beneficiaries and claimants.
- Maintain financial stability and ensure continuity of critical functions.
- Protect public funds by minimizing reliance on extraordinary public financial support.
- Ensure proper functioning of the internal market.

In view of the specific purpose of these Guidelines, the following more specific objectives were identified:

- Ensure a level playing field through common minimum harmonization rules that promote a convergent approach with regard to the identification of the critical functions.
- Ensure sufficient level of flexibility for resolution authorities to consider the specificities of national markets.
- Promoting a risk-based framework and limiting the burden for (re)insurance undertakings representing lower risk.

POLICY ISSUES

POLICY ISSUE A: ASSUMPTIONS USED FOR THE ASSESSMENT OF THE IMPACT OF THE INABILITY TO PROVIDE A FUNCTION

This policy issue is about to determine the assumptions used when assessing the inability to provide a function. For the identification of critical functions, a key aspect which needs to be assessed is the impact of the inability of insurance or reinsurance undertaking to perform those functions. With regard

to this inability, two policy options could be considered: The first option would be to assume that the function stops completely ("complete stop"), and this would represent **policy option A.1**.

Under the second option, the Guidelines would include the possibility to assume, under certain conditions, that the function is still provided, but no longer to a comparable extent, under comparable conditions or with comparable quality ("partial stop"), which would constitute **policy option A.2**.

The "complete stop" and "partial stop" are to be seen as assumptions used as inputs to the analysis of the impact of the inability to provide a function. In case a "complete stop" is assumed, the impact is expected to be higher, and more critical functions will be identified than under the assumption of a "partial stop". The question whether a certain function is critical should be distinguished from the question whether the continuity of a critical function is ensured in case of failure.

POLICY OPTIONS

POLICY ISSUE A: ASSUMPTIONS USED FOR THE ASSESSMENT OF THE IMPACT OF THE INABILITY TO PROVIDE A FUNCTION

Policy option A.1: The provision of the function that could be critical is assumed to cease completely ("complete stop")

This approach assumes that a sudden and complete discontinuation of a function occurs and it cannot be substituted within a reasonable period of time and at reasonable cost. This assumption should be used as a default by the resolution authorities when assessing the impact of the inability to provide a function.

Policy option A.2: The resolution authority may assume that under certain conditions the function is still provided, but no longer to the same extent ("partial stop")

This approach allows resolution authorities to assume a partial cease of the activities or operations of a certain function, or the partial provision of the services of a certain function, meaning that these are provided but no longer to a comparable extent, under comparable conditions and with comparable quality. In addition, the resolution authority has to ensure that objective criteria and reasonable assumptions were made during the assessment and that this results in a more accurate assessment of the impact.

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: ASSUMPTIONS USED FOR THE ASSESSMENT OF THE IMPACT OF THE INABILITY TO PROVIDE A FUNCTION

Policy option A.1: The provision of the function that could be critical is assumed to cease completely (“complete stop”)		
Costs	Policyholders	No direct impact on policyholders.
	Industry	Additional costs might be incurred by the industry due to a higher number of resolution plans expected to be drawn up.
	Resolution authorities	<p>-Less potential to identify critical functions adjusted to the market realities or the specificities of the local market.</p> <p>-Additional administrative costs are expected to be incurred as, potentially, a higher number of resolution plans are expected to be drawn up as a consequence of a higher number of identified critical functions, compared with the analysis under the assumption of a “partial stop”. This would possibly result in higher administrative costs (e.g. additional staff, IT costs etc.).</p>
	Other	No direct impact expected to be incurred by other stakeholders.
Benefits	Policyholders	No direct impact/benefits for policyholders.
	Industry	No direct impact on the industry.
	Resolution authorities	<p>-No additional administrative costs due to simplicity of assessment.</p> <p>-Limit the risk that assumptions about the ability to provide the function partly may prove false when the insurer is failing or likely to fail (FOLTF)</p>
	Other	Higher level of harmonization in the application of criteria (assessment of partial inability would vary considerably across Member States). This may lead to overall costs savings, depending on the complexity of the market and the interconnectedness with other jurisdictions.

Policy option A.2: The resolution authority can assume that under certain conditions the function is still provided, but no longer to the same extent (“partial stop”)		
Costs	Policyholders	No direct impact on policyholders.
	Industry	No direct impact on the industry.
	Resolution authorities	<p>-Potential higher administrative costs would be incurred, as the partial stop needs to be assessed based on objective criteria and reasonable assumptions. In order to derive such criteria and assumptions, proper processes, procedures and tools would need to be developed and regularly updated. Depending on the complexity of the insurance market, level of development and overall economic context (national and EU/global levels), additional expertise would need to be engaged, which consequently, would increase the costs for resolution authorities.</p> <p>-More complex assessment, including the analysis of comparability, which, as detailed above, would potentially entail higher costs for the authority and/or industry, depending on the financial arrangements in place.</p>
	Other	Lower level of harmonization of assumptions in the EU.
Benefits	Policyholders	No direct impact.
	Industry	Less burden on the industry as less insurers would qualify for resolution and as such resolution authorities would need to draw up less resolution plans.
	Resolution authorities	<p>-This policy option would provide much higher flexibility for the resolution authorities to capture national specificities and reflect economic reality in the identification of critical functions.</p> <p>-Less burden due to lower expected number of resolution plans.</p>
	Other	No impact.

COMPARISON OF POLICY OPTIONS

POLICY ISSUE A: ASSUMPTIONS USED FOR THE ASSESSMENT OF THE IMPACT OF THE INABILITY TO PROVIDE A FUNCTION

EFFECTIVENESS			
	Level playing field through sufficiently harmonized rules	Flexibility for the resolution authorities and potential for the consideration of national specificities	Promoting a risk-based framework and limiting the burden for (re)insurance undertakings representing lower risk
Policy option A.1	++	0	0
Policy option A.2	0	++	+

EFFICIENCY			
	Level playing field through sufficiently harmonized rules	Flexibility for the resolution authorities and potential for the consideration of national specificities	Promoting a risk-based framework and limiting the burden for (re)insurance undertakings representing lower risk
Policy option A.1	++	0	0
Policy option A.2	0	++	+

The potential additional costs entailed by the two policy options, appear to be relatively higher in case of policy option A1 ("complete stop") for the resolution authorities, but also for the industry, due to the higher number of resolution plans which would need to be drawn up.

Policy option A2 would imply a more thorough analysis which would need to be performed by the resolution authorities, including development of objective criteria and reasonable assumptions for selecting critical functions under the assumption of a "partial stop". However, this additional cost can be minimal in case of more developed resolution authorities, performing on a complex and mature or more developed insurance market as the additional data and information, as well as the processes and procedures necessary for the data collection and processing might already be in place.

On the other hand, under the assumption of a "complete stop" resolution authorities may incur additional and mainly administrative costs as they would need to draw up a larger number of

resolution plans. Also in this case, the industry might incur additional costs given any additional requests of data and information from the resolution authorities as well as the need to keep up to the specific requirements given that under the policy option A1, more insurers would qualify for resolution.

PREFERRED OPTION

The impact assessment considers the option of a partial inability to provide a function (“partial stop”) as an additional assumption when identifying critical functions.

The assumption of a complete inability to provide a function may lead to higher harmonization and have a greater potential for ensuring a level playing field, however, this assumption may result in an unrealistic assessment by potentially determining a higher number of critical functions, consequently resulting in a higher number of resolution plans. Although this would provide a more detailed and prudent analysis of the critical function in the resolution plan, it might not be proportionate to the economic and legal reality.

The assumption of a partial stop may better reflect economic and legal reality as in practice there might be ways to partially continue the function.

Based on these considerations, it was decided to favor an approach that ensures more flexibility to the resolution authorities to better reflect the economic situation and the specificities of the local markets, and that will also influence the outcome of the public interest. That is, the preferred option is policy option A2, where the resolution authority can assume that under certain conditions the function is still provided, but no longer to the same extent (“partial stop”).

ANNEX 2. FEEDBACK STATEMENT

This feedback statement sets out a high-level summary of the consultation comments received and EIOPA's assessment of them. The full list of all the non-confidential comments provided can be found on EIOPA's website.

EIOPA received comments from its Insurance and Reinsurance Stakeholder Group (IRSG) and from 16 other stakeholders, mainly insurance industry and associations.

As part of the consultation EIOPA held a stakeholder's workshop on 27 June 2025 to discuss the Guidelines.

EIOPA would like to express its appreciation for the feedback of the stakeholders during the preparation of the Guidelines.

SCOPE OF POTENTIAL CRITICAL FUNCTIONS

Stakeholder comments

Most of the stakeholders, including the IRSG, commented that the Guidelines covers an extensive set of functions and activities to be deemed critical. The Guidelines should relate more closely to the text of Article 2(25) of the Directive. Furthermore, the Explanatory Text comprises almost every (re)insurance activity and therefore serves limited purpose and should be removed from the Guidelines.

Assessment

In developing these Guidelines, EIOPA has followed closely the definition of critical functions as stipulated in Article 2(25) of the IRRD. Namely, the definition explicitly mentions the 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. The Explanatory Text aims to accompany the text of the Guidelines, by providing a non-binding list of potential critical functions, for illustrative purposes only. These functions that may potentially be eligible for criticality aim at guiding resolution authorities in their assessment and decision.

The identification at national levels will vary depending on the local market's features (e.g. concentration, complexity), individual insurer specificities, and the assessment methodology of the resolution authorities.

SPECIFICITIES OF THE REINSURANCE BUSINESS MODEL

Stakeholder comments

Some of the stakeholders commented that the Guidelines do not acknowledge the specificities of the reinsurance business model. When assessing whether a reinsurance undertaking carries critical functions, the national competent authorities should give due consideration to the fact that reinsurance is a business-to-business activity between highly skilled reinsurance professionals, including reinsurance brokers. Consequently, the reinsurance activity has no direct implications for retail policyholders. Furthermore, national competent authorities should give due consideration to the fact that the reinsurance business model is inherently cross-border. The diversification of risks achieved through such cross-border operations is a fundamental component of the reinsurance value proposition, enhancing both its efficiency and resilience. In this context, the cross-border activity of reinsurance undertakings should not be misunderstood as an indicator of heightened risk.

Assessment

The Level 1 text and the Guidelines do not make a distinction either between insurance and reinsurance undertakings nor by the insurer's legal form, as the rules are the same for all. EIOPA acknowledges that reinsurance is mainly a business-to-business activity, inherently cross-border and has no direct impact on policyholders. This, however, does not mean that reinsurers cannot perform critical functions. Resolution authorities may take into consideration specificities of the national insurance market, in their methodology for identification of critical functions, reflecting the specificities of the related reinsurance business as such.

CONSIDERATION FOR THE USE OF INSURANCE GUARANTEE SCHEMES (IGS)

Stakeholder comments

Some stakeholders argued that the Guidelines disallow the consideration of existing and applicable measures under normal insolvency proceedings as well as existing Insurance Guarantee Schemes in the assessment of critical functions. This potentially contradicts national legal requirements and operational processes that might be used in a resolution case and should be removed from the proposal.

Assessment

Under the IRRD, the analysis of the effect of an IGS as a mitigant factor is not part of the critical functions identification process, but rather to either the resolvability assessment or the public interest test. Under Article 9(2) of the IRRD, resolution planning is required for any insurer with a critical function regardless of the outcome of the public interest test. The applicability of an IGS to support the continuation of a critical function depends on many factors, which should be analyzed as part of the resolution planning process.

ASSUMPTION REGARDING THE INABILITY TO PROVIDE A FUNCTION

Stakeholder comments

Several stakeholders expressed the opinion that using the assumption that activities and operations cease completely and that the services are no longer provided will, in many cases, overstate the negative impact regarding the inability to provide a function. In the stakeholders' view, the "partial cease" approach corresponds much closer to reality and should thus be used as the primary approach and only in exceptional cases the "complete stop" approach should be considered.

Assessment

EIOPA recognizes that the option of a "partial stop" is more realistic from an economic perspective, therefore this alternative approach was included in the Guidelines. Nevertheless, the question whether a certain function is critical should be distinguished from the question whether the continuity of a critical function is ensured in case of failure. That is, if the continuity of a critical function is ensured in case of failure, this does not mean that the function is not critical. On the other hand, EIOPA believes that consideration of a "full stop" as the default assumption ensures a consistent application of the criteria by the resolution authorities within the Union.