



Solvency II and Insurance Recovery and Resolution Directives

■ Why does it matter to intermediaries?

On 22 September 2021, the European Commission adopted its **review of the Solvency II Regime** in the context of the EU's post pandemic recovery. The review consists of:

- a legislative proposal to amend the Solvency II Directive and
- a legislative proposal for a new Insurance Recovery and Resolution Directive (IRRD), which seeks to harmonise national laws on recovery and resolution of insurance and reinsurance undertakings.

The review does not contain proposals on the introduction of harmonised rules for Insurance Guarantee Schemes (IGS). The Commission stated, however, that it is committed to reassessing the appropriateness and timing of any such alignment in the future. It has, therefore, published, at the same time of the review, a quantitative assessment of several policy options for a possible proposal on the introduction of harmonised rules for IGSs.

■ State of play

On 14 December 2023 the Council and the EP announced a provisional agreement on amendments to the Solvency II proposal and to the IRRD proposal.

Solvency II Directive

The provisional agreement aims to **incentivise insurers to invest in long-term capital for the economy, notably towards the Green Deal**. According to the EU legislators, the provisional agreement improves the long term guarantees measures making them more risk sensitive. It also increases the resilience of the insurance industry and introduces a new macroprudential dimension in the regime. The agreement reflects the continuing importance of sustainability risks and sustainability factors and the need to integrate consideration of sustainability into (re)insurers risk management frameworks, business models, and investment strategies. According to the agreement, **more simplified and proportionate rules will ensure flexibility and reduce the administrative burden especially on small and non-complex insurance companies**.

The enhanced framework will also **strengthen coordination among NCAs regarding insurers and reinsurers' cross-border activities** (where (re)insurers carry out significant cross-border activities, i.e. annual Global Warming Potentials (GWP) in the host Member State exceeds €15 million and the supervisory authority in the host Member State consider the activities to be of relevance to their national market).

According to the Council and the EP, the protection of insurance policyholders has been improved, notably when buying insurance in another country, through the above-mentioned enhanced cooperation between supervisory authorities. Consumers will also be better informed.

Supervisory authorities will be able to take all measures necessary to safeguard the interests of policyholders where (re)insurers are in a deteriorating financial position. **For example, supervisors will be able to require (re)insurers to take measures set out in their pre-emptive recovery plans (as must be put in place under the IRRD) and to suspend or restrict bonuses and distributions**. The provisional agreement assigns a few new tasks to EIOPA in terms of elaborating various strands of technical standards.

Insurance Recovery and Resolution Directive

The Council's and the EP's agreement gives national authorities **preventive powers to intervene at an early stage**. Member States will have to set up national insurance resolution authorities, either within existing authorities or as new self-standing legal entities, ensure effective cooperation across borders, and grant EIOPA a coordinating role.

The provisional agreement requires (re)insurance companies and groups to draw up and submit **pre-emptive recovery plans to national supervisory authorities**. **This requirement will apply to companies representing at least 60% of the respective (re)insurance market**.

Furthermore, resolution authorities will have to draw up a resolution plan for insurance and reinsurance undertakings and groups, representing at least 40% of their respective market. Small and non-complex undertakings will in principle not be subject to pre-emptive recovery planning requirements on an individual basis.

Resolution authorities would be given powers to implement resolution actions in a coordinated and timely fashion. The provisional agreement provides them with resolution tools and procedures (including write-down and conversion, solvent run-offs and transfer tools) to address failures, notably in a cross-border context.

The provisional agreement also includes detailed conditions for the use of the tools and procedures. **In particular, with regard to write-downs and conversions, some liabilities will be excluded from these tools to avoid adverse outcomes for policyholders**. **Specific provisions on financing arrangements and a review clause in relation to IGS are included**.

■ Next steps

Once the new legislative texts published in the Official Journal of the EU, Member States will have 2 years to transpose them into national law.

■ Links

- [Solvency II general agreement](#)
- [IRRD general agreement](#)