

Central Bank of Ireland Consultation Paper on Regulations for Pre-emptive Recovery Planning for Re(insurers)



In June 2020, the Central Bank of Ireland (**CBI**) published a consultation paper on regulations for pre-emptive recovery planning for re(insurers). This briefing note summarises the proposed regulations and guidelines outlined in the consultation paper. The CBI has requested stakeholders to provide feedback on the consultation paper by 30 October 2020.

Overview

In July 2017, EIOPA issued an opinion¹ regarding the need for a harmonised recovery and resolution framework for (re)insurers, bringing the concept of and need for recovery and resolution planning to the fore for the European insurance industry.

More recently, the topic of recovery and resolution has also formed part of the review of the Solvency II rules required by the end of 2020 (**2020 Review**). On 15 October 2019 EIOPA issued its second wave of consultation relating to the 2020 review entitled “Consultation Paper on the Opinion on the 2020 review of Solvency II”. This consultation paper covered a number of topics including recovery and resolution. Milliman wrote a series of briefing notes on this consultation including a note on EIOPA’s proposals in relation to recovery and resolution (available [here](#)).

With the release in June 2020 of its consultation paper 131 on regulations for pre-emptive recovery planning for (re)insurers² (the **CP**), and its attaching guidance, the CBI has set out the proposed regulations and guidelines for how an Irish insurer, captive or third-country insurer with Irish branch(es) is to establish and maintain a recovery plan.

Objective of the Regulations and the Consultation Paper

The CBI’s objective in introducing regulations requiring a pre-emptive recovery plan is to:

- Promote awareness and allow firms to prepare for a range of possible adverse situations;
- Enable firms to consider and evaluate the most appropriate and effective mitigation without the resulting pressures of actual severe stress; and

- Enable firms to make more effective, comprehensive and thoughtful measures to ensure their timely implementation if required.

The purpose of the guidelines is to then assist firms in understanding their obligations under the regulations.

Whilst the CBI has invited general feedback on the regulations and guidelines from interested stakeholders, it has also specified two areas in particular where it seeks feedback:

1. What, if any, other areas should be covered in the guidelines or in further guidance?
2. Are there any areas where the application of proportionality can be improved or clarified?

Proposed Regulations and Guidance

GENERAL REQUIREMENTS

Insurers are required to prepare a recovery plan which complies with the requirements outlined in the CP. As the CP does not differentiate between life, general and reinsurance companies, the regulations take a “one size fits all” approach, which may lead to differing interpretations across the insurance industry. However, it does also incorporate specific modifications to the requirements for captive insurers or third-country insurers with Irish branches.

The proposed regulations state that they will be applicable to insurers other than those subject to Regulations 13A and 13B of the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015). Upon checking of this statutory instrument, we noticed that sections 13A and 13B do not appear to exist. As Regulation 13 of S.I. No. 485 refers to companies that are excluded from the scope of Solvency II, it is possible that the text is trying to clarify that the regulations may not be applicable to those companies who are excluded from the Solvency II regulations (of which there are currently no insurers authorised in Ireland). However, in section 3.1 of the guidelines, it specifies that all insurance and reinsurance

¹ <https://www.eiopa.europa.eu/content/institutions-eu-harmonisation-recovery-and-resolution-frameworks-reinsurers>

² [https://www.centralbank.ie/publication/consultation-papers/consultation-paper-detail/cp131---regulations-for-pre-emptive-recovery-planning-for-\(re\)insurers](https://www.centralbank.ie/publication/consultation-papers/consultation-paper-detail/cp131---regulations-for-pre-emptive-recovery-planning-for-(re)insurers)

undertakings authorised by the CBI will be subject to the regulations.

Where an insurer includes a recovery option that involves the provision of financial support from another undertaking within the same group as the insurer, the insurer is required to include confirmation that it has obtained that other undertaking's written confirmation of its willingness and ability to provide such financial support in the scenario contemplated in the plan.

The regulations state that, if requested by the CBI, the insurer must provide a copy of the recovery plan and information on the recovery indicators outlined in the plan. However, within the guidelines, it further specifies that insurers with a PRISM impact rating of High or Medium High are required to submit an initial pre-emptive recovery plan by a yet to be defined date in 2021, and for subsequent versions within 1 month of its approval by the board.

The insurer is required to maintain the plan, with review (and update if required) taking place at least annually.

An update to the plan is required where an insurer's structure, business or financial position has changed in such a way that it has a material effect, or requires changes, to the existing plan.

Where the recovery plan has been reviewed by internal/external auditors or risk committee, the occurrence and recommendations of such reviews are to be outlined in the plan.

The insurer's board needs to formally assess and approve the latest recovery plan.

GENERAL GUIDELINES

The guidelines provide further information on how the pre-emptive planning is linked to an insurer's resolution plan, system of governance, risk management framework, ORSA and the overall Solvency II regulations.

With regards to proportionality, the guidelines note that the level of detail within the pre-emptive recovery plan should be appropriate to the scale and complexity of the insurer and should be proportionate, reflecting the systemic importance of the insurer and its interconnectedness with its group or other third parties. Systemic importance should be considered from the perspectives of policyholders and claimants, the wider economy and the broader financial sector.

For captive insurers, due to the fact that its principal relationship is to its group, the guidelines note that a more simplified strategic analysis is likely to be appropriate. The most relevant scenarios would then be where the group chooses to put the captive into run-off or where the group itself is under severe stress or insolvent.

For third country branches, the guidelines clarify that pre-emptive planning is only in respect to the business carried out in the Irish branch and that the strategic analysis should relate to that branch, including any operational reliance on head

office, other group entities or third parties that are necessary for the continuation of that branch. Therefore, the most relevant scenario is one where the head office decides or is obliged to withdraw from the market and wind up the business of the branch.

Where a group recovery plan is in place, the guidelines note that it may be appropriate to place some reliance on the group plan by referencing (and sharing) relevant elements, however an insurer should not rely exclusively on the group plan, and should have its own plan in place, setting out local governance and escalation procedures, risk indicators and recovery options.

PROPOSED STRUCTURE AND CONTENTS

The draft regulations and guidelines setting out the prescribed structure and contents of pre-emptive recovery plans are outlined in separate sections of the CP. However, for ease of comparison, below we have provided a joint summary of both the regulations and attaching guidance for each section.

The CP has laid out the proposed format of the recovery plan into 10 separate sections as follows:

- PART A – Summary
- PART B – Change since last recovery plan
- PART C – Approval of recovery plan
- PART D – Governance
- PART E – Strategic analysis
- PART F – Recovery indicators
- PART G – Recovery options
- PART H – Scenario analysis
- PART I – Communication plan
- PART J – Information on preparatory measures

PART A – SUMMARY

Regulations

The recovery plan shall provide a summary of information outlined for the purposes of each of Parts D to J which are outlined further below. In particular, this section will include a summary of the following:

- Overall recovery capacity of the insurer
- Point at which insurer would initialise a closure to new business
- How this situation would be handled by the insurer

Guidelines

The summary should be used to highlight key points in relation to the overall plan and read as an executive summary or synopsis.

PART B – CHANGE SINCE LAST RECOVERY PLAN

Regulations

This section is expected to specify any material changes to the insurer, insurer's group (if applicable), or the recovery plan itself, since the plan was last approved by the board of the insurer.

Guidelines

Possible changes that could be highlighted include changes to the:

- Insurer's business strategy, corporate structure or operating model (e.g. entering or exiting specific lines of business, new reinsurance or outsourcing arrangements)
- Governance arrangements for the plan
- Recovery options considered or their relative prioritisation in the event of a stress event
- Structure or calibration of recovery indicators
- Scenarios considered or to the impact of previously used scenarios
- Insurer or plan resulting from the implementation of previously identified preparatory measures or identification of any additional measures required.

PART C – APPROVAL OF RECOVERY PLAN

Regulations

The plan is expected to show the date of its approval by the board of the insurer.

Guidelines

No further detail is provided in the guidance for this part.

PART D – GOVERNANCE

Regulations

The recovery plan needs to specify the following governance information:

- roles and functions of those responsible for preparing, implementing and updating the recovery plan, and those responsible for approving the plan as a whole
- description of how the recovery plan is integrated into the system of governance and risk management framework of the insurer
- policies and procedures governing review, update and approval of the recovery plan by the insurer
- the role of the board in review, update and approval of the recovery plan
- the insurer's policies and procedures for timely implementation of any recovery options

- the insurer's internal reporting system which provides access to relevant information to facilitate decision making for the purpose of the recovery plan.

Guidelines

The CBI's expectation is that recovery planning is integrated into the normal system of governance and risk management framework and that this section should demonstrate how this is achieved.

The guidelines also give further information on what level of detail it expects companies to provide on its governance of the plan.

PART E – STRATEGIC ANALYSIS

Regulations

The recovery plan shall provide information about the insurer that is relevant and important to understanding the plan, and appropriate to the nature, scale and complexity of the insurer, under each of the following headings:

- Core business lines
- Key services
- Critical functions
- Jurisdictions in which the insurer operates and global business and risk strategy
- Corporate and financial structures (including interconnectedness within its group)
- External financial exposures (including reinsurance) and outsourcing arrangements

The regulations also include specific modifications to the above requirements for captive insurers and third-country insurers with Irish branches.

Guidelines

The guidelines note insurers should consider:

- the scale, profitability or capital requirements of its various business lines and markets when considering its core business lines
- the reasonable expectations of its policyholders or other stakeholders and the potential for prospective policyholders to switch to another provider when considering its key services, and
- both direct (e.g. policy servicing, claims payment etc.) and support (HR, IT etc.) services when considering its critical functions.

The guidelines also go into further detail as to what is meant by corporate and financial structures, internal/external counterparties and defining the interconnectedness of these areas.

PART F – RECOVERY INDICATORS

Regulations

The recovery plan is required to include indicators that identify progression of risks that have the potential to threaten the insurer's financial viability in a timely manner. The indicators are expected to specify thresholds which, when met, require the insurer to increase monitoring of those risks, implement one or more recovery options or to escalate the issue in accordance with its governance requirements.

Within the framework of indicators, there should be indicators that reference at least the solvency and liquidity of the insurer. These indicators should:

- be relevant to the insurer's business model and strategy
- reflect the insurer's vulnerabilities which are most likely to impact on its financial position
- be sufficient in number in each of a variety of areas of the insurer's business
- clarify the point at which the insurer would consider closure to new business
- be integrated into the insurer's governance framework, forming part of its decision-making procedures
- be forward-looking in nature

The framework must also explain how the calibration of any specified thresholds has been determined by the insurer.

Guidelines

The guidelines highlight that insurers should consider both qualitative and quantitative recovery indicators and give consideration to profitability, reserving, market based and macroeconomic indicators, in addition to the solvency and liquidity indicators already specified in the regulation.

Further guidelines on what characteristics the indicators should reflect are included, along with a recommendation to review the indicators on an annual basis.

PART G – RECOVERY OPTIONS

Regulations

The recovery plan shall include a range of actions which could reasonably be expected to contribute to restoring the financial position of the insurer following a stressed event and/or to maintaining the insurer's ongoing viability.

The regulation has specified, at a minimum, four specific categories of action that are to be included in the recovery plan, as follows:

1. a range of capital and liquidity actions to maintain ongoing viability or restore the financial position of the insurer
2. actions which aim to conserve or restore the insurer's own funds through recapitalisation

3. actions to ensure that the insurer has adequate access to liquidity in order to meet its obligations
4. actions to reduce the insurer's risk profile and related Solvency Capital Requirement, or restructure the insurer's operations (possibly via a divestment of assets, business lines or portfolios of business)

The regulations state that captive insurers and third-country insurers with Irish branches are not required to produce the above specific actions, but that the actions that are included should be relevant to the entity in question.

The regulations also require that the actions include the following:

- description of each action with sufficient detail that enables an assessment of its expected impact and feasibility
- impact assessment of each action
- feasibility assessment of each action
- assessment in respect of each action of how continuity of the insurer's operations would be ensured when implementing that action
- assessment in respect of each action as to the expected timeframe for implementation and effectiveness of the action to restore the insurer's financial position

Guidelines

The guidelines highlight that the insurer should consider measures that are extraordinary in nature, along with those that would be considered more run of the mill to the business. They also state that a recovery option should not be excluded solely because it would require a change to the current nature of the insurer's business. Where an option relies on the financial support from an insurer's parent, the parent's support should be confirmed, and additional plan(s) outlined allowing for the possibility that the support ultimately will not be provided.

The guidelines also give further detail as to what the impact and feasibility assessments should consider, in addition to continuity of operations considerations.

PART H – SCENARIO ANALYSIS

Regulations

The regulation has specified, at a minimum, the below specific scenarios that are to be included in the recovery plan:

1. system wide scenario: event that risks having serious negative consequences for the financial system or the real economy
2. insurer-specific scenario: event that risks having serious negative consequences specific to the insurer
3. a scenario that combines the simultaneous occurrence of both 1 and 2 above.

4. where the recovery option involves the provision of capital or liquidity from within the insurer's group, a scenario that limits the provision of such capital or liquidity
5. closure to new business scenario: where the insurer is closed to new business but continues to honour, in full or in part, agreements made prior to that date.

The regulations state that captive insurers are not required to include scenarios 1-3 above, and third-country insurers with Irish branches are not required to include scenarios 1-4 above.

The scenarios chosen also need to:

- be relevant to the insurer in respect to:
 - business, investment and reinsurance strategy
 - operating model and corporate structure
 - asset size
 - any identified vulnerabilities of the insurer flagged in the strategic analysis section (Part E) of the recovery plan
- reflect an event that would threaten the solvency of the insurer
- include an assessment of the:
 - impact to own funds
 - impact to available liquidity
 - impact to risk profile & SCR
 - impact to operations
 - effectiveness of each recovery option
 - adequacy of the framework of recovery indicators
 - appropriate recovery option to be taken in that scenario

The regulations require a description of the overall recovery capacity of the insurer across the range of scenarios, being the extent to which implementation of the identified recovery options in those scenarios would contribute to restoring the financial position of the insurer and/or maintain its ongoing viability.

Guidelines

The guidelines highlight that the insurer should consider a range of scenarios that are commensurate to the nature, scale and complexity of the business and that these scenarios should span across both slow moving (e.g. continued annual losses) and fast moving (e.g. market crash) events.

The guidelines note that insurers should consider reverse stress testing as a starting point for developing near-default scenarios.

The guidelines also give further detail as to what the analysis of each scenario should cover.

PART I – COMMUNICATION PLAN

Regulations

The regulations stipulate that a communication plan needs to be in place for both internal and external communications.

The internal communications relate to staff, trade unions and other representatives, with the external communications directed at stakeholders such as shareholders, the CBI, counterparties, policyholders and the public (as appropriate). This section of the recovery plan is required to show how these communication plans would be implemented at such a time as a recovery plan is implemented.

Guidelines

The guidelines note that the communication and disclosure plan should consider any specific communication needs for individual recovery options and that it should also include effective proposals for managing any potential negative market reactions resulting from the actions taken.

PART J – INFORMATION ON PREPARATORY MEASURES

Regulations

The regulations require that the plan includes an analysis of any preparatory measures the insurer has taken or is necessary for the insurer to take to facilitate the implementation, or improve effectiveness, of the recovery options. A timeline for implementing these preparatory measures is also required.

Guidelines

The guidelines consider this section in slightly more detail, with clarification that timelines are required for preparatory work that has yet to be implemented.

Summary

With this consultation paper, the CBI has highlighted the importance of pre-emptive recovery planning for (re)insurers, provided the draft regulations and outlined their proposed guidelines. Two specific areas the CBI has requested feedback on are around proportionality and whether additional areas should be covered in the guidance and guidelines.

Insurers with a PRISM impact rating of High or Medium High are required to submit a recovery plan annually to the CBI, whilst those on a lower rating are only required to submit their plan on request. The CBI has already been engaging with the industry regarding recovery planning and has previously requested that plans be put in place by a number of insurers. These insurers will need to ensure that their recovery plans already in place meet the proposed new CBI requirements.

The CBI has requested stakeholders to provide feedback on the consultation paper by 30 October 2020.

How Milliman Can Help

Our consultants have been involved in advising our clients on pre-emptive recovery planning for a number of years. We have undertaken a range of work for clients in this area, including:

- Facilitating recovery planning workshops to identify scenarios to be tested and possible recovery options
- Advising on recovery planning considerations to ensure effectiveness of plans
- Drafting pre-emptive recovery plans for clients
- Independent review of recovery plans.



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