Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

Feedback Statement -
Consultation Paper 131

Regulations for pre-emptive recovery planning for (re)insurers

April 2021

Contents

1. Introduction

On 25 June 2020, the Central Bank of Ireland ("the Central Bank") published Consultation Paper 131 ("CP131") titled "Regulations for pre-emptive recovery planning for (re)insurers".

A well-functioning insurance sector safeguards consumers and contributes to economic growth and financial stability. Therefore, insurers must have the ability to manage a deteriorating financial position in order to protect itself, its policyholders and the wider economy from failure.

The Central Bank believes that pre-emptive recovery planning is a valuable tool for facilitating increased awareness and preparedness within firms. It will help insurers to understand their capacity to recover from severe stresses and will inform their strategic decision-making processes during a crisis.

Therefore, the Central Bank has introduced regulations in accordance with Section 48 of the Central Bank (Supervision and Enforcement) Act 2013 requiring insurers to establish and maintain pre-emptive recovery plans. The Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Recovery Plan Requirements for Insurers) Regulations 2021 S.I. Number 184 of 2021 (the "Regulations") were enacted on 19th April 2021 and are available at the following link. The Central Bank has also published accompanying guidance in the document titled "Recovery Plan Guidelines for (Re)Insurers" ("Guidelines") and which are available at the following link.

The Central Bank has developed its approach to pre-emptive recovery planning in the context of various EIOPA opinions and IAIS application papers and CP131 outlined the Bank's proposals in relation to the following documents:

1. Draft Regulations referred to as: "The Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Recovery Plan Requirements for Insurers) Regulations 20XX" ("draft Regulations").

2. Guidance referred to as: "Pre-emptive Recovery Plans Guidelines for (Re)Insurers" ("draft Guidance").

The consultation period for CP131 closed on 30 October 2020 and 9 responses were received. The responses received can be categorised as follows:

- Industry bodies: 3
- Insurance firms: 3
- Professional advisory firms: 2
- Professional bodies: 1

This paper summarises the responses received to CP131 and notes the Central Bank's comments and approach. This paper should be read in conjunction with CP131, which can be found on the Central Bank's website, as it refers to proposals, terms and numbering used in the consultation paper. A copy of the Consultation Papers and all responses are available on our website at this link.

The Central Bank wishes to thank all parties who responded to CP131 for their contributions.

Central Bank of Ireland

27th April 2021

2. Feedback on issues raised in CP131

A number of respondents noted their support for the proposal and welcomed the initiative by the Central Bank to promote the development of pre-emptive recovery planning across the insurance industry. It was noted that such plans can complement existing risk management processes, increasing its financial resilience and thus benefit consumers and the industry.

The respondents commented across a range of areas in CP131, which are addressed thematically below.

2.1 General comments with respect to the Regulations

2.1.1 Scope of the Regulations

Submission:

Two respondents raised questions with respect to the scope of the draft Regulations. One respondent believes that the inclusion of all insurers, from entities of larger groups to smaller captive insurers goes significantly beyond European and international ideas and beyond systems existing in other EU Member States such as France and the Netherlands. Another respondent questioned the benefit to policyholder protection of including captives, as captives do not generally service policyholders directly.

One respondent questioned the relevance of the reference to cases of failures of (re)insurers operating in the Irish market on a freedom of services ("FOS") basis. They pointed out that the Regulations would not apply to (re)insurers authorised in other Member States who are providing insurance into Ireland on a FOS basis.

Conversely, another respondent believes that the scope should be expanded to include not just domestic insurers and Irish branches of third country undertakings ("third country branches") but also entities trading in Ireland on a FOS basis.

Central Bank Response:

A key outcome of pre-emptive recovery planning is the increased awareness and preparedness of insurers for a range of possible adverse situations relevant to their business. This outcome is beneficial to both small and large insurers and the Central Bank's preference is to apply the requirement to all insurers[1] *authorised in Ireland and subject to the Solvency II Regulations. The Central Bank's understanding is that this is the approach already applied by Denmark and the Netherlands.*

The Central Bank noted the feedback on whether the application of the Regulation to captive insurers generates a benefit of policyholder protection. Therefore, the Regulation has been drafted so as to permit certain captive insurers to avail of an exemption from these Regulations. Captive insurers that do not write motor, liability or credit and suretyship business and which do not otherwise have an exposure to claims from persons outside of its group may apply to the Central Bank for an exemption

[1] Reference to "insurers" means insurers as defined in the Regulations

from the Regulations. For this purpose, persons outside of the group do not include third party insurance undertakings ceding business to a captive re-insurer.

The requirement to develop and maintain a recovery plan applies to all other insurers subject to the Solvency II Regulations and the Regulations set out a standard structure for such plans. It should be noted, however, that the Central Bank expects and acknowledges that the level of detail in each insurer's plan will depend on the nature, scale and complexity of their business. This point is covered more fully in Section 2.1.8 – Proportionality.

The Central Bank notes EIOPA's view that Solvency II should be supplemented with a requirement for undertakings to develop and maintain recovery plans in a pre-emptive manner and that such a requirement should capture a very significant share of each national market in the EU.

In the introductory section of the Consultation Paper, the Central Bank cited examples of failures of (re)insurance undertakings who are authorised in other jurisdictions to illustrate the impact that the failure of an insurer can have on policyholders. The Regulations will apply only to (re)insurance undertakings who are authorised in Ireland and subject to the Solvency II regulations, including branches of third country insurance undertakings authorised by the Bank, (hereinafter referred to as "insurers").

2.1.2 Firms in run-off

Submission:

A number of respondents requested further clarity in respect of firms in run-off. Specifically this included:

1. The merit of including any run-off firms within the ambit of the Regulations
2. Confirmation that a closure to new-business scenario is not required for firms in run-off; and
3. Details of the exemption included in what was draft Regulation 2A(2) applicable to "an insurer that is subject to Regulations 13A and 13B of the Solvency II Regulations."

Central Bank Response:

The Central Bank notes that firms in run-off are already effectively operating a firm managed winding up plan. However, there is still potential for such insurers to be impacted by a severe stress to such an extent that they are unable to complete a solvent run-off of their business as planned. Therefore it would appear appropriate for such insurers to at least consider possible recovery actions if their planned run-off is disrupted.

The requirement for recovery plans to include a run-off scenario has been removed. Instead, insurers are required to include closure to new business as a recovery option or an explanation as to why such a recovery option would not be appropriate under any circumstance. The Central Bank agrees that this requirement should not be required for an insurer already in run-off and has reflected this in the Regulations.

The reference to regulation 13A and regulation 13B of the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. 485 of 2015) ("Solvency II Regulations") refers to an amendment of the Solvency II Regulations by the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020'. Part 10 of that Act amended the Solvency II Regulations by inserting regulation 13A and regulation 13B.

2.1.3 Alignment with IAIS application paper on recovery planning / overlap with BRRD recovery planning requirements

Submission:

A number of respondents questioned whether the draft Regulations are unduly influenced by the recovery planning regulations applicable to the Banking sector under the Bank Recovery and Resolution Directive ("BRRD") and as a result were not reflective of the IAIS application paper on recovery planning. They noted that there is a risk that a lengthy and involved recovery plan could be less effective in achieving the stated objectives.

Central Bank Response:

Whilst the Central Bank notes the similarities, this is reflective of best practice for the development and documentation of recovery plans. Specifically the IAIS application paper recommends that plans should include: an executive abstract; a description of the insurer; a trigger framework; a description of its governance for recovery planning and utilisation of the plan itself; a menu of recovery options; a communication strategy; and a set of stress scenarios. These are the core considerations for any recovery plan and are reflected in Parts D to I of the Schedule to the Regulations.

Specific comments with respect to scope and the expectations under each of these sections are considered in the relevant sections below.

2.1.4 Moving ahead of EIOPA and impact on competitiveness

Submission:

A number of respondents have drawn attention to the fact that the Central Bank is pre-empting harmonised European recovery measures and expressed concerns in relation to the impact that moving ahead of European development may have on Irish insurance undertakings. One respondent highlighted the possibility that additional cost be incurred by insurers within the next two years upon finalisation of the Solvency II Review if adaptions are required to be made for any new requirements in this area.

Some respondents expressed a view that pre-emptive recovery requirements will incur higher operating and regulatory costs for Irish insurers in comparison to insurers from other EU Member States and may lead to a competitive disadvantage for Irish insurers. One respondent raised an issue that it may have an impact on Ireland's attractiveness as a location to establish/operate a (re)insurance undertaking.

Central Bank Response:

Effective recovery planning is a priority for the Central Bank. As with other Member States, such as France, Germany, Denmark and the Netherlands, the Central Bank wishes to introduce a recovery regime as early as possible notwithstanding if it is ahead of any EU-wide framework.

The proposed recovery framework provided for in the Regulations is broadly aligned with IAIS principles and best practice and therefore intended to be consistent with any future EU-wide framework. EU policy development in this area is also broadly aligned with IAIS principles and best practice and the anticipated framework is likely to be developed as a minimum harmonised framework, to allow for integration of existing national frameworks when it is implemented, thus allowing for a degree of divergence and additional measures at national level.

The Central Bank notes the concerns of respondents with regard to the impact on competition. We have not observed or been made aware that pre-emptive recovery measures have had any significant impact on competitiveness for insurance undertakings in EU Member States where similar measures have already been implemented. Furthermore, if the EU-wide framework is implemented as part of the Solvency II review, insurers in other Member States will have similar requirements to those in Ireland.

The Central Bank accepts that there may be some costs to industry in setting up and maintaining compliance with a pre-emptive recovery regime, however, proportionate and appropriate application of the Regulations should assist in ensuring that any such costs remain manageable.

Finally, while the Central Bank acknowledges that there are some costs associated with developing a recovery plan, insurance undertakings also benefit from being located in a strong regulatory regime which of itself is a source of competitive advantage. A robust pre-emptive recovery planning regime in Ireland could be a competitive advantage in the single market, if prospective policyholders are aware that there is an effective regime in place to reduce the risk of insurance failure.

2.1.5 Existing safeguards in Solvency II

Submission:

Several respondents referenced the fact that Solvency II already provides for extensive supervisory intervention measures as well as safeguards, such as the supervisory ladder of intervention when there is an imminent risk of capital requirements being breached. Reference was also made to how Solvency II already requires firms to implement recovery plans and to assess their robustness regularly through their Own Risk and Solvency Assessment (ORSA). One respondent pointed to how Solvency II has helped ensure that undertakings have remained robust during the current Covid-19 pandemic and the associated financial market disruption, and argued that the existing Solvency II framework is sufficient to safeguard against failures.

One respondent set out their view that any trigger points included in a recovery plan, which are designed to help an insurance undertaking to decide when to take capital action, should not become de facto regulatory capital requirements.

Central Bank Response:

As set out in the Central Bank's Consultation Paper (CP131), it is acknowledged that the Solvency II framework has reduced the likelihood of insurers failing in the future. However, Solvency II is not a zero failure regime and the risk of failure still exists. This risk of failure is also recognised by EIOPA in its

Opinion[2] calling for a minimum degree of harmonisation in the field of recovery and resolution for insurers. In light of this risk, an appropriate framework is necessary to ensure failure (or near failure) is managed in a manner that minimises the impacts on financial stability, policyholders and beneficiaries in both home and host member states. While recovery planning on its own will improve preparedness of insurers for responding to a severe stress, it does not eliminate the possibility of failure. However, a well-developed recovery plan should also facilitate the transition into resolution where required.

The supervisory intervention measures and safeguards that have been introduced through Solvency II, such as the ladder of intervention under Solvency II (i.e. recovery plan or finance scheme to be prepared in the event of non-compliance with the Solvency Capital Requirement ("SCR") or Minimum Capital Requirement ("MCR")) are ex-post obligations. Recovery planning is about being prepared for a severe stress. It is ex-ante and is concerned with undertakings developing options in advance to be used when under severe stress.

The ORSA is a key element of pillar II of Solvency II. The ORSA is an internal process undertaken by an insurer to assess the adequacy of its risk management and current and prospective solvency positions under normal and stress scenarios. It informs the insurers own solvency needs and capital risk appetite, which in effect represents the insurer's assessment of the appropriate level of capital given its risk profile regardless of any minimum requirements that apply.

The objective of the ORSA is to prevent an insurer from breaching its SCR and coming under severe stress, whereas a recovery plan envisions the insurer being confronted with severe stress and contemplates the actions needed to mitigate stress and restore financial strength and viability. Similar to an ORSA, a recovery plan is an insurer's own assessment of the potential impact of plausible but severe stresses and the actions that it might take in such circumstances.

As an internal risk management tool, any trigger points included in the recovery plan are designed to help an undertaking to decide when to take recovery actions in the best interest of its policyholders and should not be interpreted as de facto regulatory capital requirements.

2.1.6 Link with a resolution framework

Submission

Some respondents raised concerns about proposing a pre-emptive recovery planning framework in the absence of a wider framework on both recovery and resolution. There were concerns that the pre-emptive recovery framework needs to be embedded in a wider recovery and resolution framework in order to be effective and also that a singular initiative focused solely on pre-emptive recovery risks overlap with the anticipated wider Solvency II recovery and resolution framework and may result in an additional compliance burden for firms.

Central Bank Response

The objective of pre-emptive recovery planning is to ensure that firms understand risks that might lead to failure and have a plan in place in advance if those risks materialise, rather than trying to develop a response in stressed conditions. This is beneficial to insurers as a stand-alone requirement and

[2] Chapter 12 of EIOPA's Opinion on the 2020 review of Solvency II contains EIOPA's recommendations for pre-emptive recovery planning

enhances protection for policyholders. This is why the Central Bank has made a decision to introduce a requirement for pre-emptive recovery planning.

Recovery planning and a resolution framework can operate independently and be effective for their specific purposes. However they do complement and support each other noting that a recovery framework places responsibility on insurers to manage and control their own recovery from a financial stress, whereas a resolution framework is concerned with the orderly failure of an insurer, controlled by a resolution authority. As noted at 2.1.5 above, recovery planning does not eliminate the possibility of failure but is should help facilitate a managed recovery or a smoother transition into resolution based on existing legislative tools such as administration or liquidation.

While Ireland doesn't have a comprehensive resolution framework for insurers at present, such as that outlined in the recently published advice by EIOPA, the Bank does have existing responsibilities and powers to manage insurance firm failure. The recovery planning regulations will be embedded in the existing supervisory regime and complement the existing measures to deal with firm failure, aiding both the Bank's and insurers' readiness to deal with stress events and reducing the risk of disorderly failure.

Given that recovery planning and a resolution framework are separate but complementary, the comment with respect to an additional compliance burden is dealt with at section 2.1.4 above.

2.1.7 The level of detail required by the Regulations is overly prescriptive

Submission

Some respondents expressed the view that the requirements in the draft Regulations were overly prescriptive and would not lend themselves to a proportionate application of the Regulations. There was also a view expressed that the level of detail in the requirements may render the framework as inflexible and limit the ability of the insurer to tailor plans to the nature, scale and complexity of their business models. Some respondents provided helpful suggestions as to how the wording for the requirements could be simplified and allow for more flexibility.

Central Bank Response

The Central Bank notes the concerns of respondents and has reviewed the requirements to allow for more flexibility. Amendments include a reduction in the minimum content of some requirements in the Regulations with further detail on the Central Bank's expectation on how insurers should comply with the Regulation added to the Guidelines.

The Central Bank's objective is that the recovery plan is a realistic and useful tool for the insurer that can be referenced, as required, as a stand-alone document. Therefore, the content of the plan should be tailored to the nature, scale and complexity of the business model.

Specific comments with respect to reducing prescriptiveness under each of these sections are considered in section 2.2 below.

2.1.8 Proportionality

Submission

Related to the level of detail in the requirements, some respondents felt that the prescriptive nature of the draft requirements would impede the ability of firms to apply the requirements proportionately. Respondents were concerned that the Central Bank's intention was to apply the same rules to both High impact and Low impact firms. Some respondents suggested that the proposed modifications available to captives and third country branches should also be made available to lower impact (re)insurance undertakings. Finally, it was suggested that not all scenarios should need to be completed in full quantitative detail, at least for lower impact undertakings

Central Bank Response

It is the intention of the Central Bank that recovery planning should be both proportionate and adequate to the specific circumstances of the insurer concerned. Clarifications have been made in the wording of the Regulations and the Guideline to reflect the Central Banks' intention that there should be flexibility to apply the rules proportionately. Furthermore, we have amended the text of the draft Regulation in the Regulations to create a more principle-based framework, which allows for proportionate application. We have also reduced the minimum content of some of the requirements to allow for more proportionate application, and a more proportional interval for reviewing and updating the plan for Low and Medium-Low insurers.

2.1.9 Alignment with Regulations 146 and 148 of the Solvency II Regulations

Submission

A respondent requested that the Central Bank clarify whether the requirement to review and update recovery plans would apply to insurers who are in a position where they must submit an immediate recovery plan in accordance with Regulation 146 of the Solvency II Regulations, or a short-term finance scheme in accordance with Regulation 148.

Central Bank Response

The Central Bank notes that insurers who are subject to requirements to submit a recovery plan under Regulation 146 or a short-term finance scheme in accordance with Regulation 148 are unlikely to derive any benefit from the production or review of pre-emptive recovery plans. Therefore, the Central Bank has amended the Regulations and Guidelines to clarify that the requirement to review and maintain recovery plans may be suspended until such time that the insurer has normalised their solvency position, at which stage the requirement would be reinstated. It should be noted that the expectation is that recovery plans would be updated to reflect the fact that one or more recovery options have already been utilised as soon as practical thereafter.

2.1.10 Overall Recovery Capacity

Submission

Two respondents noted that it was unclear what the Central Bank means by the phrase "overall recovery capacity of the insurer" referenced in Part A (Summary) of the draft Regulations. This concept was further expanded on in paragraph 8 of section 5.9 (Information on Scenario Analysis) of the draft Guidance which stated: "Based on this information, the scenario analysis should conclude on the overall recovery capacity of the insurer, being the extent to which the recovery options (when deployed in line with the recovery indicator framework) allow the insurer to recover in a range of scenarios of severe macroeconomic and financial stress."

Central Bank Response:

In addition to enhancing the preparedness of insurers, a key objective of recovery planning is to ensure the boards of insurers are sufficiently aware of their ability to recover in a variety of scenarios or, conversely, at what point would the insurer be unable to recover given the range of options available to it. This is what is meant by overall recovery capacity.

In this context, recovery capacity means the degree of deterioration in financial position that the insurer could absorb and still be able to restore its financial position and maintain its viability given the range of recovery options available to it.

In particular, the Central Bank wants to achieve the outcome of ensuring that the board of the insurer is clear on when it is appropriate to close to new business so as to be able to execute a solvent run-off of its business.

The objective is increased awareness of recovery capacity. There is no right or wrong answer but the expectation is that boards are aware of their recovery limits and manage their business accordingly. This is similar to the concept of Own Solvency Needs within the ORSA process. The Guidelines have been updated to reflect these points.

2.1.11 Timing

Submission:

Some respondents requested further clarity on the timing of the introduction and frequency of review for all PRISM impact categories, not just high impact firms. One respondent suggested that the deadline for the first report should be in 2022 to avoid unreasonable burden on insurers. A number of respondents noted the need for recovery planning to be integrated with other processes such as risk appetite statements and the ORSA.

Response:

The Regulations require that all insurers have a recovery plan completed by 31 March 2022. The Regulations further require that an insurer provides a copy of the plan to the Bank on request.

The Central Bank's intention is that High and Medium-High Impact insurers will be requested to submit their recovery plans to the Central Bank as a matter of course, whereas Medium-Low and Low Impact firms will only be required to do so when specifically requested.

The Central Bank of Ireland has amended the Regulations in respect of the intervals for review to align with the PRISM impact categories.

2.2 Interaction with Groups

2.2.1 Confirmation of Group support

Submission:

A number of respondents highlighted concerns in relation to the requirement to provide written confirmation of a parent or related undertaking's willingness and ability to provide financial support. One common concern highlighted was that this requirement could amount to a contingent liability on the parent or related undertaking.

Central Bank Response:

The outcome sought by the Central Bank is that any assumption of group support for recovery is realistic, well considered and adequately assessed.

The Central Bank notes the feedback and has removed the specific requirement for written confirmation from the parent or related undertaking. The Regulations now require that, where a recovery option involves provision of financial support from another undertaking within a group of which the insurer is part, the insurer shall include confirmation from its Board that it has carried out, in consultation with the other undertaking, a realistic assessment of the other undertaking's willingness and ability to provide such financial support in the scenarios contemplated together with the key points from that assessment.

2.2.2 Group recovery plan

Submission:

A number of respondents questioned the added value of a local entity-based approach. They argued that a solo undertaking cannot be looked at in isolation of the group in which it exists and suggested that the objective of increased consumer and market protection in the event of a stress situation would be achieved by local insurance undertakings placing reliance on group recovery plans. A concern was also expressed that implementing separate requirements for a local entity that differs to the group approach can cause an unfair regulatory burden on the group and local entity.

Central Bank Response:

Group Recovery plans are unlikely to have sufficient focus on entities established and regulated at local level, to meet the requirements of the Regulations. Therefore, recovery plans are required at a solo level. This will provide assurance regarding the existence of local governance and escalation procedures, risk indicators and recovery options. However, it should be noted that the Regulations do not prevent reliance being placed on group recovery plans, where they exist, by including relevant extracts in the solo recovery plan.

2.2.3 Impact on Group

Submission:

A respondent expressed concern in relation to the impact on a group arising from the requirement that each recovery action should include an assessment of the impact on the group and, where the recovery option includes the provision of capital or liquidity from the group, a scenario where the group is not in a position to provide that support. The key concern was that the requirements effectively compel a group recovery planning process to be consistent with the local approach as mandated by the Central Bank.

Central Bank Response:

The intention is that local undertakings assess feasibility of all recovery options including those dependent on group support. There is no need for the group to complete its own plan to meet this requirement. In particular, the Central Bank has removed the requirement for a scenario limiting the provision of capital or liquidity from an undertaking within the same group. In its place, there is a requirement to consider, in respect of any recovery option based on group support, the alternative measures that it would take if that support were not forthcoming.

The Central Bank has amended the requirements to clarify that the impact assessment of the recovery option should include any material impact on the insurer's shareholders, the insurer's policyholders, the insurer's counterparties and, where applicable, the group of which the insurer is part. There is no need for the group to complete its own plan to meet this requirement.

2.2.4 International Cooperation

Submission:

One respondent noted that the Regulations failed to reflect the imperative for international supervisory co-operation and co-ordination as outlined by the IAIS in its application paper. Specifically they noted that the IAIS state that where there are multiple plans across an insurance group, arrangements need to be in place to ensure an integrated supervisory approach: "*If multiple recovery plans are created within a group (e.g. recovery plans on a group level and on a legal-entity level in certain jurisdictions), supervisory cooperation and coordination arrangements should address alignment between the plans.*".

Central Bank Response:

The Central Bank agrees with the substance of the submission but notes that the Regulations are not the place where the Bank would capture its commitment to international co-operation and co-ordination. This objective does not impact upon the need for solo recovery plans and the Guidelines recognise the necessity for consistency between various group plans. Section 5.5.3 of the Guidelines details the need to outline: "How the recovery plan aligns with any group recovery planning processes. For example, if the entity is part of a group, this section may include a description of any measures and arrangements taken within the broader group to ensure the coordination and consistency of recovery options at the level of the group and of individual subsidiaries.".

Revisions to the Regulations provide greater flexibility and the expectation of the Central Bank is that solo recovery plans can be both consistent with any group recovery planning arrangements and compliant with the locally required structure – particularly as this reflects the structure set out by IAIS.

2.3 Strategic analysis

2.3.1 Unnecessary duplication

Submission:

A number of respondents commented that there is duplication between the information that is required to be included in recovery plans and the content contained in other documents. They noted that the primary purpose of a recovery plan is to identify options to restore financial strength and viability when a firm comes under severe stress and that recovery plans sit alongside other documentation and initiatives (including the ORSA, SFCR, RSR, operational resilience / BCM plans and business strategy plans) and do not replace these other initiatives. Respondents stated that recovery plans should not be required to cover areas already addressed in these other documents and it should be possible to cross-reference other documentation without having to repeat the material therein. One respondent highlighted the risk of recovery plans being too long and ultimately of little practical benefit, leading to the risk of a tick box approach to compliance.

One respondent believes that the linkages between recovery plans and the ORSA are stronger than indicated in the draft Guidance. The respondent argued in favour of aligning the recovery planning process fully to the ORSA process by expanding scenarios and aligning recovery indicators with quantitative measures in the Risk Appetite Statement. In doing so, this would improve efficiencies and reduce duplications. By way of example, the respondent highlighted that: i) the ORSA considers more severe stresses through reverse stress testing and that it considers a wider range of risks through consideration of material risks whether quantifiable or not e.g. liquidity risk, operational risk; and ii) the ORSA is expected to address future possible management actions.

Central Bank Response:

The Central Bank's objective is that the recovery plan is a realistic and useful tool for the insurer that can be referenced, as required, as a stand-alone document. The Central Bank's intention is that the recovery plan should contain sufficient relevant information about the aspects of the undertakings business that are material to considering recovery options. Where relevant information is covered in other documents then the recovery plan could include a summary of the key information. Use of cross-referencing would mean that recovery plans would not be "stand-alone" documents that could be read independently of other company documents. This would limit its effectiveness in a crisis.

With respect to the ORSA, the Central Bank expects that some of the work completed in the development of the ORSA may be similar, or, in some cases, may be sufficient, for what is required for pre-emptive recovery planning. However to be effective, scenarios considered in the plan should be calibrated so that they are based on events that would threaten to cause the failure of the insurer or group, unless recovery measures were implemented in a timely manner. Reverse stress tests from the ORSA could be considered as a starting point for developing scenarios that are 'near-default' i.e. they would lead to an insurer's or a group's business model becoming non-viable unless the recovery actions were taken. Insurers should consider both slow moving (for example a deterioration in own funds *through on-going trading losses) and fast moving (for example a sudden reduction in the market value of investments or default by a material counterparty) adverse events. This is one aspect where scenarios used in recovery planning may differ from those used in the ORSA. Frequently ORSAs use immediate deterministic stresses to identify an appropriate solvency target or to test its robustness. Scenarios within the recovery plan should contemplate an emerging stress over an appropriate timeframe in order to test the effectiveness of the indicator framework and the usefulness of recovery options under different circumstances. The Guidelines have been updated to reflect this point.*

With respect to the Risk Appetite Statement, the intention is that risk indicators are aligned with the overall risk management framework and with the Key Risk Indicators ("KRIs") underpinning the insurer's Risk Appetite Statement so that it is integrated into the insurer's day to day governance and risk management arrangements. In this context it is expected that the KRIs used in the risk appetite are sufficiently comprehensive to cover all of the key vulnerabilities and that the framework of recovery indicators will build on those KRIs. However, it should be noted that while KRIs supporting the Risk Appetite Statement are designed to confirm compliance with the intended risk profile, recovery indicators are expected to identify emerging stresses given the vulnerabilities inherent in the risk appetite. The Guidelines have been updated accordingly.

2.3.2 Relevance of insurers operations

Submission:

One respondent noted that the wording of section 5.6 of the draft Guidance is problematic in that it requires the inclusion of a large amount of detail in relation to an insurer's operations, which will be a repeat of material elsewhere and is likely to serve little useful purpose in the recovery plan. Specifically they referenced sub-section 3 and suggest it is covering business continuity management type issues, which should be covered elsewhere by an insurer rather than within a recovery plan.

Central Bank Response:

The Central Bank does not intend that recovery plans include a substantial level of detail on the insurers operations or business continuity plans. This is not its purpose. The expectation is that the strategic analysis should include sufficient relevant information about the aspects of the undertaking's business that are material to considering key vulnerabilities and recovery options. In addition when assessing the impact of recovery options, the insurer should consider the implications for its operational capacity if any. For example, disposal or closure of a business unit may be problematic if it provides critical functions to other parts of the insurer.

The Central Bank has amended the Regulations to reduce the level of detail required in the strategic analysis and the Guidelines have been expanded to provide more detail on the Central Banks expectation on how operational information should be integrated into the recovery plan.

2.4 Recovery indicators

2.4.1 Recovery indicators and Risk Appetite Statement

Submission:

One respondent noted that more guidance was required in Sections 2.3 (Link with System of Governance, Risk Management Framework and ORSA) and 5.7 (Information on Recovery Indicators) of the draft Guidance to drive a greater coherence in how recovery indicators fit into the overall risk management framework of an undertaking and specifically their relationship with the Risk Appetite Statement.

Central Bank Response:

As noted in Section 2.4.1 above, the Central Bank notes that the objective of the Risk Appetite Statement is to set out the insurer's overall risk strategy and risk tolerances i.e. what types of risk is it willing to take and to what extent. The supporting KRIs are intended to ensure that there is regular reporting to the Board on compliance with the risk appetite. The recovery plan should focus on the vulnerabilities inherent in the risk appetite however and its focus is on identifying emerging stresses arising from the stated risk strategy and the measures that could be taken to maintain or restore the financial position of the insurer in the event of a severe stress. Therefore, while recovery indicators are likely to be aligned with the KRIs underpinning the Risk Appetite Statement their purpose is different. KRIs supporting the Risk Appetite Statement are designed to confirm compliance with the intended risk profile, while recovery indicators are expected to identify emerging stresses given the vulnerabilities inherent in the risk appetite.

2.4.2 Forward looking indicators

Submission:

One respondent requested clarification as to the requirements of indicators that are forward looking in nature. This references the requirement in Part F (b)(vi) of the draft Schedule to the draft Regulations contained in CP131 for "indicators that ….. are forward-looking in nature"

Central Bank Response:

The objective of the framework of recovery indicators is to provide the insurer with adequate warning of an impending stress so that it may deploy recovery options in a sufficiently timely way.

This point is now covered in paragraph 3 (e) of Section 5.7 of the Guidelines which sets out the expectation that the framework of recovery indicators should "Include sufficiently forward-looking indicators". In this context, sufficiently forward looking means either, lead indicators (such as interest rates or asset values) or indicators based on projected solvency or capital that may indicate impending stress. However, where an insurer is mainly relying on indicators of actual or current financial position, sufficiently forward looking means establishing limits and triggers that provide sufficient warning to allow recovery actions to be deployed.

The nature of the indicators and the extent to which they are sufficiently forward looking is a key consideration for Part F section (c) of the Schedule to the Regulations, which requires that "The framework of indicators shall include an explanation of how the calibration of any specified thresholds has been determined by the insurer…".

The Regulations have been amended to remove the absolute requirement that indicators must be forward looking in nature. This will allow more flexibility for insurers to select appropriate indicators.

2.4.3 Continuous monitoring

Submission:

One respondent requested additional guidance to clarify the level and extent of continuous monitoring and the expectations on monitoring in the event of a deterioration in circumstances and specifically the meaning of Paragraph 7 of section 5.7 of the draft Guidance (Information on Recovery Indicators).

Central Bank Response:

The Central Bank expects that insurers will have appropriate monitoring arrangements in place to identify, on a timely basis, any breaches of limits or triggers within the framework of recovery indicators. Paragraph 3 (d) of the same section notes that indicators should "Be aligned with the overall risk management framework and with the Key Risk Indicators underpinning the insurer's Risk Appetite Statement so that it is integrated into the insurer's day to day governance and risk management arrangements." Therefore, the expectation is that recovery indicators are monitored at least as frequently as the metrics underpinning the Risk Appetite Statement.

Where an insurer's proposed response to a breach of a recovery indicator limit is that the frequency of monitoring should be increased then the internal reporting systems should be capable of supporting such increased frequency. Further, the internal reporting systems should facilitate the timely submission of the indicators to the Central Bank if the insurer is requested to do so.

The Guidelines have been updated to reflect the above.

2.4.4 Qualitative Recovery Indicators

Submission:

One respondent noted that the reference to 'operational continuity or brand and reputation' in section 5.7 of the draft Guidance appears to be straying beyond the purpose of a recovery plan.

Central Bank Response:

The Central Bank notes the concern. The intention of the guidance is that insurers should not limit their choice of recovery indications and should consider indicators of a qualitative nature that might highlight risks to the ultimate viability of the insurer such as for example risks arising from operational events or significant damage to brand and reputation that might highlight a deterioration in operational capabilities or brand and reputation which in turn may materially impact its business model and ultimate viability.

2.5 Recovery options

2.5.1 Recovery Actions

Submission:

One respondent noted that the proposed framework is significantly more prescriptive than the IAIS framework with respect to level of detail on recovery actions. The IAIS lists elements that "may be considered for inclusion" whereas the Central Bank requires specific granular details.

Central Bank Response:

The IAIS application paper notes: "The core of the recovery plan is the menu of options that an insurer identifies in advance of any stress as potential pathways to effective recovery in the event of severe stress. This menu of options should be comprehensive, with a focus on options that are able to significantly enhance and restore the capital and/or the liquidity position in times of severe stress. The range of recovery options would usually include acts to: raise capital or other funding, increase liquidity, reduce costs, and enhance risk mitigation".

In relation to the range of recovery options, the Central Bank's view is that insurers should consider options to conserve or restore the insurer's own funds such as: cost reductions or recapitalisation of the insurer; options to ensure that the insurer has adequate access to liquidity; and actions to reduce the insurer's risk profile and related Solvency Capital Requirement. This is in line with the IAIS application paper.

The IAIS also note: "The menu of recovery options should include a detailed description for each recovery option identified. Some details that may be considered for inclusion are as follows:

- *A summary analysis that reports the essential elements of the option;*
- *A description of the option;*
- *An overview of the key assumptions underlying the option and the basis for any expert judgment;*
- *An assessment of strategic implications of executing the option;*
- *An assessment of the financial impact in normal and stressed market conditions. It may be appropriate to consider a range of pricing and asset valuation outcomes;*
- *Potential adverse consequences of executing the option;*
- *Speed and timing for effective execution;*
- *Any dependency on external counterparties for effective execution;*
- *Operational aspects underlying effective execution, highlighting delegated authorities and approval requirements;*
- *An assessment of potential impediments and constraints to effective execution, both internal and external; and*
- *A brief description of any previous experience with applying a certain option, including lessons learned from that experience."*

The Regulations effectively address the same broad requirements.

2.6 Scenario analysis

2.6.1 Scenarios

Submission:

One respondent highlighted that recovery options that can be deployed independently of the "cause" should not be considered less valid.

Central Bank Response:

The determination of which recovery option is most appropriate in order to restore its financial position following a significant deterioration of its financial situation rests with the insurer. The objective of the section on scenario analysis is to set out the expectations regarding the need to test the effectiveness of the recovery options and the adequacy of recovery indicators under a range of scenarios of financial or operational stress.

2.6.2 Recovery planning time horizon

Submission:

A number of respondents requested additional guidance on the time-period over which the Central Bank envisages the recovery indicators being triggered and the recovery options being implemented and the expected time horizon for the scenario analysis.

Central Bank Response:

The rationale for the structure set out in the Regulations is to support the following broad thought process: identify potential vulnerabilities, identify potential recovery options (including their impact, feasibility and timeliness), develop an indicator framework to provide sufficiently timely warning of an impending stress and test the efficacy of the indicator framework and recovery options through realistic and robust scenario analysis. The relevant vulnerabilities of each insurer will be specific to that insurer. The recovery plan should reflect those vulnerabilities including the time horizon over which they might be expected to emerge.

Section 5.9 of the Guidelines (Information on Scenario Analysis) notes that insurers should consider "Both slow moving (for example a deterioration in own funds through on-going trading losses) and fast moving (for example a sudden reduction in the market value of investments or default by a material counterparty) adverse events". Therefore, the time horizon for scenario analysis should reflect the nature of the stress.

As noted in section 2.4.1 this is an aspect where scenarios used in recovery planning may differ from those used in the ORSA. Frequently ORSAs use immediate deterministic stresses to identify an appropriate solvency target or to test its robustness. Scenarios within the recovery plan should contemplate an emerging stress over an appropriate timeframe in order to test the effectiveness of the indicator framework and the usefulness of recovery options under different circumstances.

2.6.3 Run-off scenario

Submission:

A number of respondents questioned the purpose or necessity of the run-off scenario as set out in Part H (a)(iv) of the Schedule to the draft Regulations set out in CP131 noting that this was more in the nature of a recovery or resolution option and that the specific requirements were unclear. In addition, the general view was that the detail required for such a scenario (as set out in sections (f) and (g) of the same Part H were unduly detailed.

Central Bank Response:

The Central Bank notes the feedback and has removed the requirement for a run-off scenario.

A key outcome for the Central Bank from pre-emptive recovery planning is that insurers understand their overall recovery capacity as discussed in section 2.1.10 above. A key element of this is being able to identify the point at which a solvent run-off should be initiated because beyond that point any further deterioration would mean that they would not be able to recover or to complete a solvent run-off. Therefore, Part G (Recovery Options) of the Schedule to the Regulations has been amended to require that "except where an insurer is already in run-off, the range of recovery options must include solvent run-off … or a detailed explanation why solvent run-off would not be a reasonable option under any circumstances.".

In addition, Part F (recovery indicators) of the Schedule to the Regulations requires that the framework of indicators is capable of identifying the point at which the option to close to new business should be considered in order to ensure that the insurer remains solvent and can continue to honour agreements made prior to the date of its closure to new business.

2.7 Communication plan

2.7.1 Communications plan

Submission:

One respondent suggested additional points that might be considered within the communication plan including practicalities such as timing, frequency and key contact details as well as legal obligations relating to disclosure or confidentiality. They also sought clarification as to whether the point regarding effective proposals for managing any potential negative market reactions represented a requirement or guidance.

Central Bank Response:

The Central Bank believes that proper and thoughtful communication is key during a crisis and that insurers should anticipate potential communication requirements in the event of a recovery event and be prepared for dealing with those demands. However, the specifics of what constitutes an appropriate *communication plan will vary from insurer to insurer and circumstance to circumstance. The Regulations simply require that the recovery plan should include a communications plan that covers both internal and external communication. The Guidelines are supplementary and highlight the type of points that the communications plan might include. The Central Bank has incorporated the suggested points into the Guidelines. The consideration of how any potential negative market reaction might be managed is a suggestion rather than a requirement.*

2.8 Information on preparatory measures

2.8.1 Preparatory Measures

Submission:

One respondent believed that Part J (preparatory measures) of the draft Schedule to the draft Regulations goes much further than the IAIS application paper by requiring an analysis of preparatory measures that "are necessary for the insurer to take to facilitate the implementation of recovery options or to improve effectiveness" and requesting a timeline for the implementation of those preparatory measures. It appears that they have interpreted this requirement as indicating that preparatory measures need to be implemented before entry into recovery.

Central Bank Response:

The Central Bank notes that the IAIS application paper makes reference to preparatory measures in the following context. "Lastly, the insurer may decide to take any preparatory measures to facilitate the implementation of the recovery plan, for instance to overcome any identified impediments to effective execution of a recovery option, or to increase the chance of timely execution of a recovery option. These measures and any progress towards them could be noted in the recovery plan.".

A key objective is that pre-emptive recovery planning should increase awareness and preparedness within insurers. Recovery options need to be both credible and feasible. Therefore, the Central Bank believes that it is reasonable to expect insurers following their assessment of recovery options and scenario analysis, to consider whether there are potential impediments that could be mitigated by taking preparatory measures to facilitate the timely and effective implementation of recovery options when required. This would facilitate improvement to their overall recovery capacity.

By way of clarification, the identification of preparatory measures is optional and will depend on whether potential impediments have been identified which the insurer believes need to be addressed to improve its overall recovery capacity. Therefore, the Regulations simply require that where there are preparatory measures identified, they should be disclosed in the recovery plan together with details of any associated timeline for their implementation.

This is now more fully explained in the Guidelines.

2.9 Other matters

2.9.1 Independent reviews

Submission:

A number of respondents sought clarification in relation to the Central Bank's expectations around the review process for recovery plans, in particular, the expectations regarding reviews to be conducted by internal audit, external audit, the risk committee etc.

Central Bank response:

While the Central Bank considers that independent reviews of the recovery plan would represent good practice, such reviews are not mandatory. The Regulations and Guidelines have been updated to clarify the Central Bank's expectations in this regard.

2.10.2 Making plans available to external parties.

Submission:

One respondent suggested that there should be a requirement to make the plan available to intermediaries to facilitate them in meeting the Central Bank's expectation in respect of assessing financial soundness.

Central Bank Response:

A recovery plan is an internal risk management tool to increase awareness and preparedness of insurers for a range of possible adverse situations relevant to their business. It will not be a public document. Existing reporting, most notably the Solvency and Financial Condition Report (SFCR), provides a basis for assessing financial soundness.