

Central Bank of Ireland Recovery Plan Requirements for Insurers Regulations 2021



In April 2021, the Central Bank of Ireland (CBI) published their recovery plan requirements in the form of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Recovery Plan Requirements for Insurers) Regulations 2021. This briefing note summarises the published regulations and guidelines, whilst also drawing attention to the areas that have materially changed when compared to the CBI's draft proposals released in June 2020.

Overview

Recovery planning (usually firm driven) seeks to identify options to restore financial strength and viability when a firm comes under severe stress, whilst resolution (usually regulator driven) occurs when a firm is no longer viable or likely to be no longer viable, and has no reasonable prospect of becoming so.

Recovery and resolution planning has been an area of consideration for regulators and industry bodies dating back to the 2007 financial crisis, with increased regulatory focus being seen in recent times.

In June 2020 the CBI set out their proposed recovery planning regulations with the release of consultation paper 131 (the CP), with our briefing note covering this CP being found [here](#). A number of respondents to the CP noted the timing of the release, as EIOPA were in the process of finalising its opinion on recovery and resolution, as part of the Solvency II 2020 Review.

EIOPA subsequently published its opinion on this area (along with a range of other areas) in December 2020, with it reiterating its view of a need for a harmonised recovery and resolution framework, which was consistent with its 2017 opinion¹ on the same topic. Milliman prepared a briefing note summarising the final Solvency II 2020 proposals, including the area of recovery and resolution, which can be found [here](#).

On 19 April 2021 the finalised recovery planning regulations were released by the CBI in the form of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Recovery Plan Requirements for Insurers) Regulations 2021² (the **regulations**). The CBI also published their feedback statement to the CP³, as well as updated guidelines⁴ to accompany the finalised regulations.

Given that 31 March 2022 is the date by which regulated firms (some exclusions/modifications apply) need to have their plans in place, there is a only a short window for those yet to

consider pre-emptive recovery plans within their risk management framework. We do note, however, that the CBI has clearly signalled their intentions regarding recovery planning through their CP proposals and previous communications on the topic.

The broad headline changes to the regulations when compared to the CP proposals are in:

- Removing requirements for a written confirmation from groups regarding financial support
- Requiring a more targeted view of closure to new business considerations in recognition that not all firms see this as a feasible/material recovery option or scenario to allow for
- Revising the plan review requirement for Medium-Low and Low PRISM rated firms to now be once every two years, from the previously required annual review
- Introducing an exemption for certain captive reinsurers

Objective of the Regulations and the accompanying Guidelines

The CBI's stated 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
- Enable firms to take 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.

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

² <http://www.irishstatutebook.ie/2021/184/made/en/No.184of2021>

³ <https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp131/feedback-statement-to-cp131.pdf>

⁴ <https://www.centralbank.ie/regulation/industry-market-sectors/insurance-reinsurance/solvency-ii/requirements-and-guidance/recovery-plan-guidelines-for-reinsurers.pdf>

Regulations and Guidance

The finalised requirements and guidelines include revisions in a number of areas in order to incorporate feedback received during the consultation phase. To serve as a bridge between the final regulations and the draft CP proposals, we have included an overview of the finalised regulations and guidelines, along with commentary under “Key changes compared to the CP” for each area where the regulations or guidelines have significantly deviated from the CP’s draft proposals.

GENERAL REQUIREMENTS

Insurers are required to prepare a recovery plan which complies with the requirements as set out in the regulations. As the regulations do 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. The requirements do however, incorporate some specific modifications to the requirements for captive insurers and third-country insurers with Irish branches.

The regulations state that they will be applicable to insurers other than the following:

- Those subject to Regulations 13A and 13B (i.e. firms availing of the Temporary Run-off Regime (TRR)) of the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015)
- During such times that an insurer is developing and implementing a recovery plan under the non-compliance with SCR regulation or a finance scheme under the non-compliance with MCR regulation of Solvency II.
- Captive reinsurers that satisfy a specific set of conditions as contained in the regulations, once an exemption has been sought from and confirmed by the CBI

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 in the recovery plan 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.

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 recovery plan by 31 March 2022, and for subsequent versions to be submitted within 1 month of their approval by the board. Newly authorised firms are required to prepare a plan within 12 months of their authorisation.

The insurer is required to maintain the plan, with review (and update if required) taking place at least annually for High and Medium-High insurers and every 24 months for Medium-Low and Low insurers. Where a firm has been reclassified to a High or Medium-High rating from a Medium-Low or Low rating, a plan review within 6 months of the reclassification is required.

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 resolution plans and an insurer’s 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 nature, scale and complexity of the insurer and should be proportionate, reflecting such information that is necessary to understand the key vulnerabilities of the insurer, its recovery capacity and the governance arrangements for the development and operation of the plan.

For a captive insurer, 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 scenarios for which recovery options may be required are those where the head office decides or is obliged to withdraw from the market and wind up the business of the branch.

The guidelines also comment on insurers that may be in run-off, confirming that the regulations still apply to these firms and they should prepare a plan which reflects the fact that their ability to complete a solvent run-off may be impacted by a stress event and require recovery actions to be taken.

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 including extracts of relevant elements, however an insurer should not rely exclusively on the group plan. The

insurer should still have its own plan in place, setting out local governance and escalation procedures, risk indicators and recovery options.

The guidelines also note that while there is no specific requirement for a recovery plan to be tested or independently reviewed, it is regarded as best practice that the plan be periodically challenged in this manner to ensure that it is realistic and operationally effective.

Key changes compared to the CP

Of perhaps greatest significance to the industry was the removal of the requirement to provide written confirmation of a parent or related undertaking's willingness and ability to provide financial support. A concern highlighted by several respondents to the CP was that this requirement could amount to a contingent liability on the parent or related undertaking. The CBI noted the feedback and revised the requirement to now cover a realistic board assessment of any group support.

The regulations now contain a wider range of definitions of firms to which they do not apply, including an exemption for certain captives, although the definition is quite narrow and we are unsure how many firms this will ultimately exclude from preparing a plan.

The regulations also confirm the date at which a recovery plan needs to be in place, which for most firms is 31 March 2022, and extended the period between subsequent reviews for Medium-Low and Low firms from 1 to 2 years.

The guidelines provide further information on the new applicability requirement for firms availing of the Temporary Run-off Regime (Regulation 13A and 13B firms) and provide details on considering a firm's overall recovery capacity and what should be included in this assessment.

STRUCTURE AND CONTENTS

The regulations have laid out the required 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

We will discuss the main requirements and guidelines for each part of the plan in the following sections.

PART A – SUMMARY

The regulations require that the recovery plan 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 on the insurer's conclusion of its overall recovery capacity as detailed in Part H – Scenario analysis.

Within the guidelines it states that the objective of the summary is to provide a clear overview of the key elements of the plan. Additionally, the summary should include a separate summary of the insurer's conclusion on its overall recovery capacity.

Key changes compared to the CP

The requirement to highlight the point at which the insurer would initiate a closure to new business has been removed (however this requirement is still retained in Part F- Recovery Indicators for firms where this option would be relevant). This change echoes feedback received from the CP which noted that closure to new business was not a feasible/material recovery option or scenario for a number of companies and should therefore not be a blanket requirement for all firms to reflect.

PART B – CHANGE SINCE LAST RECOVERY PLAN

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

A number of examples of possible changes that could be included within this section are highlighted in the guidelines.

PART C – APPROVAL OF RECOVERY PLAN

The plan is expected to show the date of its approval, and each version thereof by the board of the insurer.

PART D – GOVERNANCE

The recovery plan needs to specify the following governance information:

- Policies and procedures governing review, update and approval of the recovery plan by the insurer
- Roles and functions of those responsible for preparing, implementing and updating the recovery plan, and those responsible for reviewing the plan as a whole and recommending it to the board for approval
- Description of how the recovery plan is integrated into the system of governance and risk management framework of the insurer
- The insurer's policies and procedures for timely implementation of any recovery options including:

- Internal escalation and decision-making procedures regarding recovery indicator breaches and recovery option choice (if any), arising
- Roles and functions within the insurer that are involved in the procedures referred to above
- Procedure for timely engagement with the CBI which identifies the point at which, and the means by which, they will be engaged

In the guidelines, the CBI outline their expectation 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 the CBI expect companies to provide on their governance of the plan.

Key changes compared to the CP

The regulations removed the requirement to provide information on the insurer's internal reporting systems which would be used to provide access to relevant information to facilitate decision making for the purpose of the recovery plan. Commentary on this area however still remains within the guidelines and would be seen as best practice to include in a plan.

PART E – STRATEGIC ANALYSIS

The regulations state that the recovery plan provides information about the insurer that is relevant and important to understanding the plan, and appropriate and proportionate to the nature, scale and complexity of the insurer, under each of the following areas:

- Core business lines
- Key services
- Critical functions
- Any material concentrations in the above three areas in any jurisdiction in which the insurer operates
- Overall global business and risk strategy
- The insurer's group interconnectedness, including around areas such as financial exposures, guarantees, reinsurance and operational arrangements
- The insurer's external interconnectedness, including around financial exposures to counterparties and outsourcing arrangements

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

The objectives of the strategic analysis section are highlighted in the guidelines, with this section aiming to provide a clear overview of the insurer with a view to identifying likely vulnerabilities or impediments to recovery and enabling an informed assessment of the recovery plan's credibility and feasibility.

The guidelines note that an insurer should consider:

- The scale, profitability or capital requirements of its various business lines and markets when considering its core business lines and their contribution to the future viability of the insurer
- The reasonable expectations of its policyholders, claimants and the wider economy, and the potential for current and 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 on both internal and external interconnectedness considerations.

PART F – RECOVERY INDICATORS

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

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 integrated into the insurer's governance framework, forming part of its decision-making procedures

The indicators should also explain how the calibration of any specified thresholds has been determined by the insurer and, where relevant, specify the point at which the insurer would consider solvent run-off, if considered as a recovery option in Part G – Recovery Options.

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.

Additional guidance has been provided referencing the alignment of key risk indicators (KRIs) from the Risk Appetite statement to the recovery indicators, whilst also noting recovery indicators are also expected to identify emerging stresses.

Further guidelines on what characteristics the indicators should reflect are included, along with a recommendation to review the indicators as part of the overall plan review.

Key changes compared to the CP

The softening of the requirements around closure to new business are reflected here, where clarifying the point at which the insurer would consider closure to new business is only required now where relevant.

Allowing for CP feedback, the guidelines now include further detail around alignment of KRIs and recovery indicators and what is meant by indicators being forward looking.

PART G – RECOVERY OPTIONS

The recovery plan must include a range of recovery options 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 options will take into consideration the following types of potential actions:

1. Actions which aim to conserve or restore the insurer's own funds through recapitalisation
2. Actions to ensure that the insurer has adequate access to liquidity in order to meet its obligations
3. Actions to reduce the insurer's risk profile and related SCR, or restructure the insurer's operations (possibly via a divestment of assets, business lines or portfolios of business)

Additionally, except where an insurer is already in run-off, the range of recovery options needs to include a solvent run-off option or adequate explanation why this option would not be a reasonable recovery option under any circumstance.

The regulations also require that the options include the following:

- Description of each option with sufficient detail that enables an assessment of its expected impact and feasibility
- Impact assessment of each option
- Feasibility assessment of each option
- Expected timeframe for the implementation of the option and the financial impact to be realised

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 insurer should also consider what actions could be taken in the event that such support is not forthcoming.

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

Key changes compared to the CP

There has been a slight change in wording around options, which previously required specific actions to be shown, but which now require a firm's consideration where reasonable.

The final regulations have brought in the requirement to reflect a solvent run-off option or provide adequate explanation as to why this option is not reasonable.

The final regulations also removed the modification which previously allowed captive insurers or third-country insurers with Irish branches to omit the above outlined options, if not relevant.

PART H – SCENARIO ANALYSIS

The regulation has specified, at a minimum, the following 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.

The regulations state that captive insurers and third-country insurers with Irish branches are not required to include scenarios 1-3 above, but that the scenarios identified will reflect their dependence on their respective group or head office.

The scenarios chosen also need to:

- Be relevant to the insurer in respect to:
 - The insurer's business
 - Operating model
 - Group and external interconnectedness
 - 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
 - Adequacy of the framework of recovery indicators
 - Appropriate recovery option(s) to be taken in that scenario
 - Expected impact, feasibility and timeframe (as based on assessments outlined in the part G - Recovery Option area of the plan)

The regulations require the insurer's conclusion on its overall recovery capacity, being the extent to which implementation of available recovery options in the range of scenarios considered would enable the insurer to restore its financial position and maintain its ongoing viability in a timely manner.

Within the guidelines it is highlighted 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 could consider reverse stress tests from the ORSA as a starting point for developing near-default scenarios.

Further detail is also given in the guidelines as to what the analysis of each scenario should cover and additional context as to what recovery capacity represents.

Key changes compared to the CP

The finalised regulations remove the requirement for where parental support is considered as a recovery option, to show a scenario that limits the provision of this capital or liquidity.

The requirement to reflect a closure to new business scenario was also removed, with it now being considered as a recovery option which, arguably, is a more appropriate placing for it within the regulations.

PART I – COMMUNICATION PLAN

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

This section of the recovery plan is also required to show how these communication plans would be implemented at such a time as a recovery plan is implemented.

The communication and disclosure plan guidelines state that this section should consider any specific communication needs for individual recovery options. It also outlines possible stakeholders and details to consider when formulating the communication and disclosure plan.

PART J – INFORMATION ON PREPARATORY MEASURES

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

The guidelines go into further detail on what is meant by preparatory measures and highlight that the objective of this section is to summarise any such learnings and proposed actions so as to improve overall recovery capacity for the future.

Key changes compared to the CP

The final regulations remove the requirement to detail an analysis on preparatory measures that the insurer has already taken (however this area is still referenced in the guidance and would reflect good market practice).

Key Aspects of a Recovery Plan

The regulations define what the CBI expect firms to adhere to when formulating recovery plans. If we take a step back, when considering the key areas that underpin a recovery planning framework, they can be broadly split into 3 parts; recovery indicators, recovery options and the scenarios analysed. The following sections provide useful insights into these core areas of the plan.

We have discussed them here as they appear in the regulations, but in reality there is an interconnectedness which results in an iterative process when considering the effectiveness of possible indicators and options against specific scenarios, that will lead to changes and refinements across these areas by the time the final plan is agreed.

RECOVERY INDICATORS

With indicators being required to identify the progression of risks that can potentially threaten an insurer's financial viability, most companies may look to indicators already utilised within their existing frameworks, such as KRIs monitoring Solvency or liquidity ratios.

It is important though that whichever indicators are chosen, that they are evaluated with consideration to pre-empting financial deterioration and the subsequent recovery event, with perhaps added focus around the thresholds decided upon, to ensure that if breached, there is sufficient scope to implement the desired actions within a timely fashion.

RECOVERY OPTIONS

The recovery options will obviously be a driver of any recovery plan and in ensuring a firm restores its financial position following a stress event. We have seen clients consider portfolio sales, capital injections from a parent, expense reduction programmes or reinsurance as recovery options for example.

For each scenario considered, a firm should specify the option (or options) that it would ultimately look to implement, with the prospect that different option(s) could be preferred for different scenarios. It is also important to consider how different recovery options interact with each other, especially where a firm is likely to require implementation of multiple options to position itself for recovery.

In addition, once the pre-emptive options are chosen, the company should factor in any preparatory measures needed to

ensure they can be effectively implemented. Some options can appear relatively simple to implement on paper. However further analysis can flag impediments to their effective implementation. Thus, we recommend a root and branch analysis of the options to highlight any impediments and remedy if possible.

SCENARIOS ANALYSED

When considering scenarios that could drive a firm to recovery breaches, a logical starting point is considering any reverse stress testing scenarios included within the ORSA process, whilst noting that scenarios shouldn't necessarily be limited to these.

Firms need to decide on which option(s) would ultimately be implemented for each of the scenarios analysed and should consider "what-if" analyses, especially if the same option is favoured across a range of scenarios. For example, consideration given to internal capital injections not being forthcoming, if they are heavily relied upon across recovery situations.

We recommend firms give proper consideration to scenario selection as we have found that companies can spend a lot of time defining indicators and options, whilst perhaps not giving as much attention to the scenarios analysed. Picking scenarios that are relevant and impactful to the firm will help ensure that the indicators and options chosen will be robust enough to be effective if an actual recovery situation were to occur.



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Conclusions

With the release of these regulations (and corresponding guidelines), the CBI has become one of a handful of European regulators to legislate for recovery plan formulation.

With 31 March 2022 being the date for which pre-emptive plans need to be prepared, firms have only a short window in which to formulate their plans. The timing also coincides with many year-end deliverables and we would therefore recommend firms formulate their plans sooner rather than later, with upcoming ORSA exercises perhaps being a natural time to consider overlapping themes such as scenarios and options.

With many firms tackling the considerations around, and drafting of, recovery plans for the first time, an independent review and challenge of proposed plans may be considered best practice as highlighted by the CBI within the guidelines.

How Milliman Can Help

Our consultants have been involved in advising our clients on pre-emptive recovery planning for a number of years and have spoken on the topic of recovery and resolution at a wide range of client and industry events. 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
- Analysing pre-emptive recovery options to ensure effective preparatory measures are put in place
- Designing and implementing of recovery indicator frameworks
- Drafting pre-emptive recovery plans for clients
- Gap analyses of existing plans with the previous draft regulations
- Independent review of recovery plans.

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