



STATUTORY INSTRUMENTS.

S.I. No. 184 of 2021



CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013
(SECTION 48(1)) (RECOVERY PLAN REQUIREMENTS FOR INSURERS)
REGULATIONS 2021

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In exercise of the powers conferred on the Central Bank of Ireland (the “Bank”) by section 48 of the Central Bank (Supervision and Enforcement) Act 2013 (No. 26 of 2013) (the “Act”), the Bank, having consulted with the Minister for Finance and the Minister for Enterprise, Trade and Employment (as adapted by the Business, Enterprise and Innovation (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 519 of 2020)) in accordance with section 49(1) of the Act hereby makes the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Recovery Plan Requirements for Insurers) Regulations 2021.

Interpretation

2. (1) In these Regulations –

“Bank” means Central Bank of Ireland;

“board” means the board of directors of an insurer;

“captive” means a captive insurance undertaking or a captive reinsurance undertaking, within the meaning of Regulation 3 of the Solvency II Regulations;

“captive manager” means a firm to which the board of directors of a captive has delegated by way of contract the management and administrative functions of the captive;

“group” means a group for the purposes of the Solvency II Regulations;

“impact rating” means the impact rating of an insurer as designated by the Bank under PRISM and notified to the insurer;

“insurer” means a regulated financial service provider authorised by the Bank that is an insurer or reinsurer within the meaning of section 1(1) of the Insurance (No. 2) Act, 1983 (No. 29);

“PRISM” means the Probability Risk and Impact System, the Bank’s risk-based framework for the supervision of regulated firms;

“recovery indicator” means an indicator in the recovery plan as required to be provided for in accordance with Part F of the Schedule;

“recovery option” means an action in the recovery plan as required to be provided for in accordance with Part G of the Schedule;

“recovery plan” means the plan that the insurer is required to establish in accordance with Regulation 4(1)(a) of these Regulations;

“Schedule” means the schedule to these Regulations;

“Solvency II Regulations” means the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015);

“third-country branch” means a permanent presence in the State of a third-country insurance undertaking that has received authorisation from the Bank to pursue insurance business within the State;

“third-country insurance undertaking” has the meaning ascribed to it in Regulation 3 of the Solvency II Regulations.

(2) In these Regulations references to “High impact”, “Medium-High impact”, “Medium-Low impact” and “Low impact” are references to the impact rating of an insurer.

(3) In these Regulations, a reference to PRISM or a reference to any of the impact ratings referred to in paragraph (2) includes any amendment to PRISM or any amendment to such impact ratings, as may be made by the Bank from time to time.

Application

3. (1) Subject to paragraphs (2), (3) and (4), these Regulations apply to insurers.

(2) These Regulations do not apply to an insurer -

- (a) that is excluded from the application of the Solvency II Regulations, or
 - (b) to which Regulations 13A and 13B of the Solvency II Regulations apply.
- (3) These Regulations do not apply to an insurer for such time as that insurer is developing and implementing -
 - (a) a recovery plan under Regulation 146 of the Solvency II Regulations, or
 - (b) a finance scheme under Regulation 148 of the Solvency II Regulations.
- (4) (a) Subject to subparagraph (b), these Regulations do not apply to a captive that satisfies the following conditions:
 - (i) the captive does not write contracts of insurance written in the classes within motor insurance, liability insurance or credit and suretyship insurance as each is defined in Schedule 1 Part 2 of the Solvency II Regulations;
 - (ii) the captive does not have any exposure to claims from persons outside the group of which it is part with the exception of any insurance undertakings and reinsurance undertakings, whether within the meaning of Regulation 3 of the Solvency II Regulations or otherwise, which cede business to the captive in respect of risks solely arising from the group of which the captive is a member.
- (b) The exemption referred to in subparagraph (a) shall not apply until such time as the captive has applied to the Bank in writing with the necessary information for the purposes of subparagraph (a) and received notice from the Bank that the Bank is satisfied of the application of that exemption.

Insurer to establish recovery plan

- 4. (1)(a) An insurer shall prepare a recovery plan which complies with the requirements of these Regulations and the Schedule and which provides a complete description of the information required in the Schedule.
- (b) For the purposes of subparagraph (a) an insurer shall –
 - (i) prepare the recovery plan by 31 March 2022, or
 - (ii) where the insurer is newly authorised by the Bank on or after the date on which these Regulations come into operation, prepare the recovery plan within 12 months of the date of its authorisation.
- (c) For the purposes of subparagraph (a), an insurer to whom Regulation 3(3) applies on or before 31 March 2022 shall prepare the recovery plan within 12 months of the date of when Regulation 3(3) no longer applies to it.

(2) Paragraph (1)(a) applies subject to any modifications in the Schedule in respect of an insurer that is either of the following:

- (a) a captive;
- (b) a third-country insurance undertaking which obtained an authorisation from the Bank in relation to a third country branch.

(3) Where an insurer provides for a recovery option in the recovery plan that involves provision of financial support from another undertaking within a group of which the insurer is part, the insurer shall 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.

(4) If requested by the Bank to do so, an insurer shall provide the following to the Bank:

- (a) a copy of the recovery plan;
- (b) information on the recovery indicators provided for in the recovery plan.

Insurer to maintain recovery plan

5. (1) An insurer shall maintain the recovery plan.

(2) For the purposes of paragraph (1), the insurer shall –

- (a) review and, if necessary, update the recovery plan, at the following intervals:
 - (i) subject to subparagraph (a)(ii), within 12 months of preparation of the recovery plan or its last review, where the insurer has been notified of the application to it of an impact rating of High impact or Medium-High impact under PRISM and that impact rating has come into operation;
 - (ii) within 6 months of notification of the application to it of a change in impact rating from Low impact or Medium-Low impact, to High impact or Medium-High impact under PRISM and that impact rating has come into operation, and thereafter within 12 months of its last review;
 - (iii) within 24 months of preparation of the recovery plan or its last review, where the insurer has been notified of the application to it of an impact rating of Medium-Low impact or Low impact under PRISM and that impact rating has come into operation;
 - (iv) where an insurer is an insurer to whom Regulation 3(3) applies after 31 March 2022 and has prepared a recovery plan in accordance with Regulation 4, within 6 months of Regulation 3(3) ceasing to apply and thereafter in accordance with subparagraph (a)(i) to (iii),

- (b) update the recovery plan after any change to the legal or organisational structure of the insurer, its business or its financial position, where such a change could have a material effect on, or necessitate a change to, the recovery plan,
- (c) ensure that its board formally assesses and approves the recovery plan, and each version thereof,
- (d) ensure that if the recovery plan has been reviewed by the insurer's internal audit function, external auditor or risk committee, the recovery plan states that such a review has taken place and sets out any recommendations arising from that review,
- (e) ensure the recovery indicators in the recovery plan are monitored frequently, and
- (f) ensure that its internal reporting system –
 - (i) facilitates frequent monitoring by the insurer of recovery indicators in the recovery plan, and
 - (ii) ensures that information necessary for the insurer to take decisions on whether to implement recovery options is available in a reliable and timely way, including when the insurer is operating under conditions of financial stress.

Schedule

Part A - Summary

The recovery plan shall provide a summary of information outlined for the purposes of each of Parts D to J of this Schedule, under the following corresponding headings:

- Governance;
- Strategic analysis;
- Recovery indicators;
- Recovery options;
- Scenario analysis;
- Communication plan;
- Information on preparatory measures.

This Part shall include a separate summary of the insurer's conclusion on its overall recovery capacity as is more particularly described in Part H.

Part B - Changes since last recovery plan

The recovery plan shall identify any material changes to the insurer, the group of which the insurer is part, or the recovery plan itself, which are relevant to the insurer's recovery capacity, since the recovery plan was last approved by the board.

Part C - Approval of recovery plan

The recovery plan shall confirm the date of approval of the recovery plan and each version thereof by the board.

Part D - Governance

The recovery plan shall provide the following governance information:

- (a) the insurer's policies and procedures governing review, update and approval of the recovery plan by the insurer including-
 - (i) roles and functions within the insurer that are responsible for preparing, implementing and updating each section of

- the recovery plan, and
- (ii) roles and functions within the insurer that have responsibility for reviewing the recovery plan as a whole and recommending it to the board for approval;
- (b) a description of how the recovery plan is integrated into the system of governance and risk management framework of the insurer;
 - (c) the insurer's policies and procedures for timely implementation of any recovery options including –
 - (i) the insurer's internal escalation and decision-making procedures, where a threshold specified in a recovery indicator is met, for determining which recovery option, if any, the insurer will take in response,
 - (ii) the roles and functions within the insurer that are involved in the procedures referred to in subparagraph (i), including a description of the responsibilities of those roles and functions for the purposes of that procedure, or, if such persons constitute a committee, the roles, functions and responsibilities of each committee member in the procedure, and
 - (iii) the insurer's procedure for timely engagement with the Bank which identifies the point at which, and the means by which, the Bank will be engaged.

Part E - Strategic analysis

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

- (a) the lines of the insurer's business, geographical areas or markets that are critical to the ongoing viability of the insurer (hereinafter referred to as 'core business lines');
- (b) the types of services provided by the insurer, either to policyholders with respect to the performance of the policies held by them, or to the market in general in terms of the provision of ongoing insurance services for specific risks to facilitate economic activity (hereinafter referred to as 'key services');
- (c) the essential operational activities and functions required by the insurer to provide key services (hereinafter referred to as 'critical functions');
- (d) the insurer's business insofar as concerns the following:
 - (i) the insurer's overall global business and risk strategy;

- (ii) any material concentration of the core business lines, key services or critical functions in any jurisdiction or in any subsidiary or branch of the insurer;
- (e) the insurer's group interconnectedness insofar as concerns the following:
 - (i) all material financial exposures, reinsurance and other risk transfer arrangements of the insurer that are in place with other undertakings within a group of which the insurer is part;
 - (ii) all legally binding financial guarantees, financial support agreements or other agreements between the insurer and undertakings within a group of which the insurer is part including the form of financial support provided to or by the insurer and the conditions associated with the provision of such financial support;
 - (iii) the insurer's operational interconnectedness within a group of which the insurer is part, being critical functions that are centralised in one undertaking or branch provided to or by the insurer;
- (f) the insurer's external interconnectedness insofar as concerns the following:
 - (i) the insurer's material financial exposures and liabilities to its counterparties outside any group of which the insurer is part;
 - (ii) the services which undertakings outside any group of which the insurer is part provide to the insurer which are critical to the proper functioning of the insurer.

Modification of this Part in respect of an insurer that is a captive

In substitution for paragraphs (a) to (d) of this Part, the recovery plan shall provide the following:

- (a) a summary of the lines of business and level of cover provided by the captive to any undertakings within the group of which the captive is part;
- (b) identification for the purposes of paragraph (a) of any insurance underwritten by the captive giving rise to any exposure to claims from persons outside the group of which it is part;
- (c) information on obligations to such third party claimants as referred to in paragraph (b) in the event of the insolvency of the captive;
- (d) information on obligations to such third party claimants as referred to in paragraph (b) in the event of the insolvency of the group of which the captive is part.

In substitution for paragraph (f)(ii) of this Part, the recovery plan shall specify any arrangements in place between the captive and a captive manager including the circumstances in which either of the captive or the captive manager may terminate such arrangements.

Modification of this Part in respect of an insurer that is a third-country insurance undertaking which obtained an authorisation from the Bank in relation to a third country branch

In substitution for paragraphs (a) to (d) of this Part, the recovery plan shall provide a summary of the core business lines, key services, critical functions and business of the third country branch, insofar as relates to the third country branch only.

In substitution for paragraph (e) of this Part, the recovery plan shall include information on functions that are important for the functioning of the third country branch that are not carried out by the third country branch itself, including functions referred to in paragraph (e).

In substitution for paragraph (f) of this Part, the recovery plan shall include information on the following insofar as it relates to the business carried on by the third country branch:

- (a) material financial exposures of the third country branch;
- (b) critical services provided by persons to the third country branch.

Part F - Recovery indicators

The recovery plan shall 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 shall 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.

- (a) The framework of indicators shall include a range of indicators with reference to at least the following:
 - (i) solvency of the insurer;
 - (ii) liquidity of the insurer.
- (b) The indicators included in (a) shall be:
 - (i) relevant to the business model and strategy of the insurer and reflect the insurer's vulnerabilities which are most likely to impact upon the insurer's financial position and, as result, require the insurer to consider whether to implement a recovery option;
 - (ii) integrated into the insurer's governance framework, including forming part of its day-to-day decision-making procedures.

- (c) The framework of indicators shall include an explanation of how the calibration of any specified thresholds has been determined by the insurer including if relevant the point at which the insurer would consider solvent run-off, as described in Part G, as the most appropriate recovery option.

Part G - Recovery options

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

The range of options shall take into consideration the following types of potential actions to maintain ongoing viability or restore the financial position of the insurer with the aim of ensuring the viability of the core business lines and key services of the insurer, as referred to in Part E of the Schedule, and of maintaining the critical functions referred to in that Part:

- (a) actions the primary aim of which is to conserve or restore the insurer's own funds through recapitalisation of the insurer;
- (b) actions to ensure that the insurer has adequate access to liquidity so that the insurer can carry on its operations and meet its obligations as they fall due;
- (c) actions to reduce the insurer's risk profile and related Solvency Capital Requirement under the Solvency II Regulations, or to restructure the insurer's business lines, including, where appropriate, an analysis of possible divestment of assets, insurance portfolios or business lines.

Each recovery option shall include the following:

- (a) a description of the recovery option with sufficient detail to enable an assessment of its expected impact and feasibility for the insurer, including an assessment by the Bank;
- (b) an impact assessment of the recovery option including the following:
 - (i) the impact where relevant on the own funds, liquidity, required capital, profitability and operations of the insurer and, if applicable, the different subsidiaries or branches of the insurer which may be affected by the action or involved in its implementation;
 - (ii) any external impact or systemic consequences including an impact on key services performed by the insurer, as referred to in Part E of the Schedule, and 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;

- (iii) the valuation assumptions and all other material assumptions made for the purpose of the assessments referred to in subparagraphs (i) and (ii), including assumptions about the marketability of assets or the behaviour of other market participants;
- (c) a feasibility assessment of the recovery option including the following:
 - (i) any risks associated with implementing any action;
 - (ii) the insurer's previous experience (if any) of implementing the action concerned or an equivalent measure;
 - (iii) a description of any potential material impediments to the effective and timely implementation of the recovery option together with an analysis of how the impediments described could be overcome by the insurer;
 - (iv) where a recovery option relies upon the provision of financial support from an undertaking within the group of which the insurer is part, information on the insurer's plan in the eventuality that the financial support is not provided;
- (d) the expected timeframe for the implementation of the action by the insurer, and for the financial impact detailed at (b) (i) to be realised.

Except where an insurer is already in run-off the range of recovery options shall include solvent run-off where the insurer permanently closes to new business but continues to honour agreements made prior to that date or an adequate explanation why solvent run-off would not be a reasonable recovery option under any circumstance.

Part H - Scenario analysis

The recovery plan shall include a range of scenarios which shall –

- (a) include at least one scenario in respect of each of the following:
 - (i) a 'system-wide scenario', which means an event that risks having serious negative consequences for the financial system or the real economy;
 - (ii) an 'insurer-specific scenario', which means an event that risks having serious negative consequences specific to the insurer;
 - (iii) a scenario that involves a system-wide scenario and an insurer-specific scenario occurring simultaneously,
- (b) reflect, in respect of each scenario, a scenario that is relevant to the insurer having regard to the insurer's business, operating

- model, group interconnectedness, external interconnectedness and any identified vulnerabilities of the insurer relating to the information referred to in Part E of the Schedule,
- (c) reflect, in respect of each scenario, an event that would threaten the solvency of the insurer, unless one or more recovery options were implemented in a timely manner and improved the financial position of the insurer, and
 - (d) include in respect of each scenario -
 - (i) an assessment of the impact of the scenario on the insurer in terms of the following:
 - (I) the insurer's own funds;
 - (II) the insurer's available liquidity;
 - (III) the insurer's risk profile and Solvency Capital Requirement applicable pursuant to the Solvency II Regulations,
 - (ii) an assessment of the adequacy of the framework of recovery indicators in that scenario, in terms of identifying in a timely manner that a recovery option should be implemented by the insurer, and
 - (iii) identification of the recovery options that the insurer considers could be appropriate in that scenario including a synopsis of the expected impact, feasibility and timeframe in that scenario based on the assessments in Part G of the Schedule.

The recovery plan shall include 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.

Modification of this Part in respect of an insurer that is a captive

The range of scenarios for the recovery plan of a captive may include any of the scenarios referred to in paragraph (a)(i) to (iii) of this Part but is not required to do so. The scenarios identified by the captive shall reflect its dependence on the group of which it is part.

Modification of this Part in respect of an insurer that is a third-country insurance undertaking which obtained an authorisation from the Bank in relation to a third country branch

The range of scenarios for a recovery plan of a third country branch may include any of the scenarios referred to in paragraph (a)(i) to (iii) of this Part but is not required to do so. The scenarios identified by the third country branch shall reflect its dependence on its head office.

Part I - Communication plan

The recovery plan shall include a communication plan that provides for the following:

- (a) an internal communication plan for the insurer's communication of the implementation of recovery options to relevant internal stakeholders, including how the internal communication plan would be implemented when a recovery option is implemented;
- (b) an external communication plan for the insurer's communication of the implementation of recovery options to relevant external stakeholder including how the external communication plan would be implemented when a recovery option is implemented.

Part J - Information on preparatory measures

The recovery plan shall include information on preparatory measures including the following:

- (a) details of any preparatory measures that the insurer considers are necessary for the insurer to take to facilitate the implementation of recovery options or to improve effectiveness, including any preparatory measures necessary to overcome impediments to the effective implementation of recovery options that are identified in the recovery plan;
- (b) the timeline for implementing any measures referred to in paragraph (a) of this Part.

Signed for and on behalf of the CENTRAL BANK OF IRELAND

19 April 2021

ED SIBLEY,

Deputy Governor Prudential Regulation

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations set out certain requirements in respect of recovery plans for insurers authorised by the Central Bank of Ireland and to whom these Regulations apply.

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To be purchased from
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D02 DR67.

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