

Insurance Quarterly Legal and Regulatory Update

1 January 2025 - 31 March 2025



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1 SOLVENCY II

1.1 IRRD and Solvency II Amending Directive published in OJ

On 8 January 2025, the Insurance Recovery and Resolution Directive (**IRDD**)¹ and the Solvency II Amending Directive² were published in the Official Journal of the European Union. Both pieces of legislation were approved under the corrigendum procedure and entered into force on 28 January 2025.

Member States are required to adopt and publish the measures necessary to comply with Articles 1 to 91, 96 and 97 of the IRRD and the measures necessary to comply with the Solvency II Amending Directive by 29 January 2027. These measures will apply from 30 January 2027.

The IRRD can be accessed [here](#).

The Solvency II Amending Directive can be found [here](#).

1.2 Consultation paper on the proposal for revised Guidelines on the methods for determining market shares for reporting

On 3 February 2025, EIOPA published a consultation paper³ presenting the proposed revised Guidelines on methods to determine market shares in order to limit supervisory reporting under Article 35(11) of the Solvency II Directive⁴.

EIOPA aims to provide clarity to the roles of undertakings and supervisory authorities by promoting the use of the option to use the limitation/exemption from reporting. The paper has revised and simplified the Guidelines in a manner which is not expected to have a material impact on the insurance industry or supervisory authorities.

The deadline for providing feedback on the consultation paper is 28 April 2025.

The consultation paper can be found [here](#).

Responses to the consultation can be provided [here](#).

2 EIOPA

2.1 EIOPA opinion on reassessment of natural catastrophe risks in standard formula

On 30 January 2025, EIOPA published an opinion⁵ on the 2023/24 reassessment of natural catastrophe (**NatCat**) risks in the standard formula under the Solvency II Directive. This opinion followed an EIOPA consultation on the reassessment of NatCat risks in April 2024, carried out to confirm that NatCat parameters of the standard formula remain valid.

EIOPA has noted the increased prevalence of natural disasters and extreme weather events due to climate change. Therefore, in order to ensure that policyholders were safeguarded, and the insurance market was stabilised, EIOPA issued the following recommendations:

- Updates to the way that NatCat risks are accounted for in insurers' standard formula calibrations.
- The formulation of an approach to re-assess and recalibrate the NatCat solvency capital requirements (**SCR**) on a regular basis.

¹ (EU) 2025/1

² (EU) 2025/2

³ EIOPA-BoS-24-594

⁴ 2009/138/EC

⁵ EIOPA-BoS-24/462

- Adjusting standard formula risk factors for natural perils for certain regions.
- Expanding the number of countries considered.

The broadest update has occurred in the area of flood risk. Three countries have been recalibrated to better match the risks insurance companies with underwritten businesses in the region face. Seven further countries have been proposed for inclusion in the standard formula after their risk was found to be material. EIOPA is also monitoring the emergence of additional perils with potential for inclusion in the standard formula calibrations.

EIOPA has submitted the report for consideration to the European Commission.

The full opinion can be found [here](#).

2.2 EIOPA supervisory statement on deduction of foreseeable dividends from own funds

On 20 February, EIOPA published a supervisory statement⁶ on the deduction of foreseeable dividends from own funds under the Solvency II Directive⁷.

Under Article 70(1)(b) of the Solvency II Delegated Regulation⁸, insurance and reinsurance undertakings and groups are required to deduct foreseeable dividends and charges from own fund items. EIOPA states that the main methods used to deduct foreseeable fund dividends are the annual full deduction approach, the quarterly accrued deduction approach and the approach where foreseeable dividends are deducted after the approval of the administrative, management or supervisory body.

EIOPA is currently reviewing a Commission Implementing Regulation⁹ to reflect changes stemming from the Solvency II review and to consider other changes relevant for supervisory purposes. The following guidance is provided:

- EIOPA expects supervisory authorities not to prioritise supervisory actions where an undertaking or group uses the quarterly accrued approach.
- EIOPA considers annual full deduction a feasible option where undertakings or groups operate in a more stable and predictable environment or where there is a high expectation or history of paying a fixed amount as dividends,
- EIOPA considers the deduction of dividends after formal approval of the AMSB a feasible option only in the event of objective difficulty in estimating foreseeable dividends.

The full supervisory statement can be accessed [here](#).

2.3 EIOPA peer review report on supervision of stochastic valuation

On 5 March 2025, EIOPA published a peer review report on the supervision of the stochastic valuation method¹⁰ under the Solvency II Directive.

The report was conducted alongside National Competent Authorities (**NCA**s) to assess their supervision of the identification and valuation of options and guarantees requiring stochastic valuation.

Overall, 21 Member States participated in the review for either the full or limited scope. Among the findings of the report was that stochastic valuation was being increasingly utilised by insurers and reinsurers despite its complexity. Among the actions recommended by the report are:

⁶ EIOPA-25/135

⁷ 2009/138/EC

⁸ (EU) 2015/35

⁹ (EU) 2023/894

¹⁰ EIOPA-BoS-25-066

- Improving the identification of options and guarantees.
- Developing national guidance and implementing supervisory activities related to the valuation of stocks and guarantees.

Some examples of practices praised by the report include measures implementing EIOPA guidelines along with national specific guidance and measures adopted by NCAs to supervise stochastic valuation.

EIOPA intends to update the stochastic valuation section of its supervisory handbook to include the review and accompanying guidance.

A full copy of the report can be found [here](#).

2.4 EIOPA technical advice on capital requirements for cryptoasset investments

On 27 March 2025, EIOPA published technical advice¹¹ to the European Commission on standard formula capital requirements for investments in cryptoassets.

EIOPA notes that Solvency II lacks specific provisions for cryptoassets. This has led to insurers classifying their cryptoassets without a consistent approach raising concerns about risk sensitivity and the level of prudence associated with these types of assets.

Empirical analysis of historical cryptoasset data conducted by EIOPA suggests that current capital weight options underestimate risks associated with cryptoasset exposure. As a result of this, it recommends that a one-to-one capital requirement is applied consistently to all cryptoasset holdings of EU insurers. This can be achieved by:

- Amending Article 203 of the [Solvency II Delegated Regulation](#) to include a clarification that cryptoasset exposures fall under the intangible asset module with a specific stress of 100%.
- Amending Article 168(3) of the [Solvency II Delegated Regulation](#) to exclude exposures to cryptoassets from type 2 equity.

EIOPA recommends a 100% haircut in the standard formula for these assets in light of their inherent risks and high volatility. Additionally, EIOPA has rerecommended a review in future of the treatment of cryptoassets under the Solvency II framework to reflect the wider adoption of cryptoassets in the insurance sector.

The full technical advice can be accessed [here](#).

3 CENTRAL BANK OF IRELAND

3.1 Revised Consumer Protection Code published

On 24 March 2025, the Central Bank of Ireland published a newly revised Consumer Protection Code following a public consultation process. The revised code will replace the existing Consumer Protection Code 2012 and will be fully operational from 24 March 2026, allowing firms one year to put the revised Code in place. The review of the Consumer Protection Code can be found [here](#). The Consumer Protection Regulations¹² can be found [here](#).

The Central Bank also published supplementary guidance with a view to supporting firms in implementing the revised Code and the additional requirements associated with it. The following supplementary guidance was published:

¹¹ EIOPA-BoS-25/068

¹² Central Bank (Supervision and Enforcement) Act 2013 (section 48) (Consumer Protection) Regulations 2025 [S.I. No. 81 of 2025].

General Guidance on the Consumer Protection Code: This Guidance incorporates and updates existing guidance in a number of areas including unregulated activities, informing effectively and financial abuse. It also includes new guidance on changes introduced under the revised Code. The Guidance can be found [here](#).

Guidance on Protecting Customers in Vulnerable Circumstances: This Guidance provides a background to the definition and approach to vulnerability under the revised Code and what firms must do to meet their related obligations under the Code. An understanding of vulnerability and a commitment to addressing the needs of vulnerable consumers needs to be central to the culture of a firm. Firms also need to look to what measures can be taken to engage with and assist consumers in vulnerable circumstances. The Guidance can be found [here](#).

Guidance on Securing Customers' Interests: This Guidance aims to assist firms in securing the interests of customers as required under the new Standards for Business Regulations. It sets out the necessary considerations, actions and mindset to be adopted for the benefit of customers. Firms should therefore be better prepared to implement their consumer protection obligations. The Guidance can be found [here](#). The Standards for Business Regulations can be found [here](#).

4 DATA PROTECTION

4.1 European Commission proposes to extend adequacy decisions for the UK by six months for free and safe data flows

On 18 March 2025, the European Commission proposed to adopt an extension of the two 2021 adequacy decisions with the United Kingdom for a period of six months. The proposed extensions were submitted to the European Data Protection Board (EDPB) for consideration. Once approved, UK data protection rules deemed to be adequate in 2021 will remain in place allowing the free flow of data with the UK until 27 December 2025.

The extensions are intended to allow legislative processes surrounding the Data Protection Bill, introduced in 2024, to conclude in the UK. Once concluded the Commission will be in a position to assess whether the new legal framework continues to provide an adequate level of protection for personal data. If the Commission is satisfied, they will propose to renew the UK adequacy decisions.

The draft technical extensions for the respective adequacy decisions can be found [here](#) and [here](#).

5 DORA

5.1 European Union (Digital Operational Resilience) Regulations 2025

In order to give full effect to DORA¹³ in Ireland, the European Union (Digital Operational Resilience) Regulations 2025 came into effect on 17 January 2025. They were subsequently amended by the European Union (Digital Operational Resilience) (No. 2) Regulations 2025, which were signed into law on 14 February 2025.

The Regulations can be found [here](#) and [here](#).

5.2 Central Bank Guide to Submitting DORA Major ICT- related Incident and Significant Cyber Threat Reports

On 15 January 2025, the Central Bank published their Guide to Submitting major ICT related incident and Significant Cyber Threat Reports on Central Bank of Ireland Portal.

A full copy of the guide can be accessed [here](#).

¹³ Directive (EU) 2022/2556 amending Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU, 2014/65/EU, (EU) 2015/2366 and (EU) 2016/2341 as regards digital operational resilience for the financial sector

5.3 DORA ITS/ RTS/ Guidelines

The following technical standards and guidelines under DORA have been adopted by the European Commission or published in the Official Journal during the period 1 January 2025 to 31 March 2025:

- RTS on the harmonisation of conditions enabling the conduct of oversight activities. The RTS was published on 13 February 2025 and can be found [here](#). It came into effect on 5 March 2025.
- RTS on Threat Level Penetration Testing (**TLTP**). The RTS was adopted on 13 February 2025 and is yet to enter into force. It can be accessed [here](#).
- ITS on the content, format, templates and timelines for reporting major ICT-related incidents and significant cyber threats. The ITS was published on 20 February 2025, and can be accessed [here](#). It entered into force on 12 March 2025.
- RTS on the content, format, templates and timelines for reporting major ICT-related incidents and significant cyber threats. The RTS was published on 20 February 2025, and can be accessed [here](#). It entered into force on 12 March 2025.
- Guidelines on the estimation of aggregated costs/losses caused by major ICT-related incidents. The Guidelines were published on 18 March 2025 and can be accessed [here](#). The compliance deadline is 19 May 2025.
- RTS specifying the criteria for determining the composition of the joint examination team (**JET**). The RTS was published on 24 March 2025, and can be accessed [here](#). It will enter into force on 13 April 2025.
- RTS on subcontracting ICT services under DORA. The RTS was adopted on 24 March 2025. This follows the Commission's rejection of the previous RTS on subcontracting. The RTS is yet to come into force and can be accessed [here](#). A Dillon Eustace briefing paper on the rejection of the previous RTS on subcontracting can be found [here](#).

On 11 February 2025, the EBA published amended Guidelines on ICT and security risk management measures in the context of DORA application. The amended Guidelines can be accessed [here](#).

5.4 ESAs publish roadmap for designation of critical ICT third-party service providers under DORA

On 18 February 2025, the European Supervisory Authorities (**ESAs**) published a roadmap for the designation of critical third-party service providers (**CTTPs**) under the DORA. The ESAs stated their intention to organise a workshop with third-party ICT service providers (**ICT TPPs**) to provide further clarity.

The roadmap provides that:

- **30 April 2025:** The ESAs will collect registers of information submitted by financial entities to national competent authorities (**NCA**s).
- **July 2025:** The ESAs will conduct criticality assessments and notify ICT TPPs if they are considered critical.
- **Mid-September 2025:** A hearing period will take place allowing ICT TPPs to raise objections to the assessment.
- **Year End 2025:** The ESAs will have designated all CTTPs, published the corresponding list and commenced oversight duties.

The ESAs also clarified that ICT TPPs can voluntarily classify request to classify themselves as critical as soon as the list is published.

The roadmap can be accessed [here](#).

The accompanying press release can be accessed [here](#).

5.5 European Commission clarifies the definition of ICT services under DORA

On 22 January 2025, EIOPA published a new Q&A providing clarification by the European Commission on the definition of 'ICT services' under DORA.

A Dillon Eustace briefing paper on the clarification can be found [here](#).

6 MISCELLANEOUS

6.1 Draft Amended Personal Injuries Guidelines Submitted to the Minister for Justice

On 31 January 2025, following a meeting of the Judicial Council, draft amendments to the Personal Injury Guidelines¹⁴ were submitted to the Minister for Justice.

The proposed changes include an increase in the quantum of awards and an application of principles adopted by the Superior Courts relating to damage in multiple injuries cases.

More information on the draft guidelines can be found [here](#).

¹⁴ Draft Personal Injury Guidelines – 2nd Edition

Key contacts

If you have any questions in relation to the content of this update, to request copies of our most recent newsletters, briefings or articles, or if you wish to be included on our mailing list going forward, please contact any of the team members below or your usual contact in Dillon Eustace.

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