

# Insurance Quarterly Legal and Regulatory Update

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## 1 SOLVENCY II

### 1.1 ESMA consults on revised Guidelines on the Supervisory Review Process

On 2 July 2025, EIOPA launched a public consultation on its draft revised Guidelines on the Supervisory Review Process. The aim of the consultation is to update the Guidelines by clarifying existing instructions and bringing emerging risks within the scope of the revised Solvency II Directive<sup>1</sup>.

The goals of the proposed amendments are to align the existing provisions with the latest regulatory developments and new supervisory best practices and to incorporate new processes to address risks and trends that have emerged since the publication of the Guidelines.

The draft Guidelines include new sections such as business model analysis, joint on-site inspections, early intervention measures, pre-emptive recovery planning, and the supervisory conduct of business. The revisions are designed to reflect the outcome of the Solvency II review and to ensure more effective supervision and financial stability in Europe's insurance sector.

The Consultation was open until 24 September 2025, after which time all responses were published on EIOPA's website unless otherwise requested.

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

### 1.2 EIOPA publishes final reports on draft technical standards and guidelines under amended Solvency II Directive

On 14 July 2025, EIOPA published its first batch of reports relating to technical standards and guidelines under the Solvency II Directive<sup>2</sup> (as amended)<sup>3</sup>.

EIOPA published the following:

- A final report on draft regulatory technical standards (RTS) relating to undertakings under dominant or significant influence or managed on a unified basis. The full report can be accessed [here](#).
- A final report on draft RTS specifying the conditions and criteria to be used by supervising authorities when determining which activities when carried out by insurance or reinsurance undertakings under the right of establishment or under the freedom to provide services are of relevance with respect to the host Member State's market. The full report can be accessed [here](#).
- A final report on revised implementing technical standards (ITS) on lists of regional governments and local authorities' exposures that are to be treated as exposures to the central government. The full report can be accessed [here](#).
- A final report on revised guidelines on undertaking specific parameters. The full report can be accessed [here](#).

In response to feedback, minor changes have been made to the draft RTS. No changes have been made to the guidelines or draft ITS. All of the draft technical standards have been submitted to the European Commission for adoption.

### 1.3 European Commission consults on amending Solvency II Delegated Regulation

On 18 July, the European Commission published a consultation on a draft Commission Delegated Regulation<sup>4</sup> amending the

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<sup>1</sup> Directive 2009/138/EC

<sup>2</sup> Directive 2009/138/EC

<sup>3</sup> Directive (EU) 2025/2

<sup>4</sup> Ares(2025)5843909

Solvency II Delegated Regulation<sup>5</sup>.

The Commission is proposing amendments to the Solvency II Delegated Regulation in light of the amendments that the Solvency II Amending Directive introduces to the Solvency II Directive<sup>6</sup>. These amendments will lead to many of the provisions of the Solvency II Delegated Regulation becoming obsolete when the Solvency II Amending Directive<sup>7</sup> begins to apply from the 30 January 2027.

The Commission contends that the amendments to the Solvency II Delegated Regulation aim to remove deterrents for insurers to support the long-term financing of the EU economy, while preserving financial stability and ensuring policyholder protection. Among the proposed changes in the draft Delegated Regulation are amendments to: technical provisions, long-term security guarantee measures, own funds, standard formula capital requirements, reporting and disclosure, proportionality, and group solvency.

The consultation remained open for comment until 5 September 2025. The Commission intends to adopt the amending Delegated Regulation in Q3 2025. The Delegated Regulation will enter into force 20 days after publication in the Official Journal of the European Union and will apply from 30 January 2027.

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

#### 1.4 European Commission renews equivalence determinations for Brazil, Japan and Mexico

On 17 September 2025, the European Commission adopted a Delegated Decision on the renewal of determinations that the solvency frameworks for insurance and reinsurance undertakings in Brazil, Japan and Mexico are provisionally equivalent to the requirements set out under the [Solvency II Directive](#).

In June and November 2015, the Commission had adopted Delegated Decisions on the provisional equivalence of these solvency frameworks for insurance and reinsurance undertakings which were due to expire on 1 January 2026.

As provided for under Article 227(6) of the Solvency II Directive, provisional equivalence may be extended for a further ten years where the criteria under 227(5) is deemed to be met. Following consultation with EIOPA, it was decided that these criteria will continue to be met by Brazil, Japan and Mexico.

The new Delegated Decision renews the provisional equivalence for the above-named countries from 1 January 2026 until 31 December 2035.

The text of the new Delegated Decision can be accessed [here](#).

## 2 EIOPA

### 2.1 EIOPA consults on revised ITS and guidelines on supervisory reporting and public disclosure

On 10 July 2025, EIOPA published a consultation paper<sup>8</sup> on proposals for implementing technical standards (ITS) and guidelines on supervisory reporting and public disclosure supplementing the Solvency II Directive<sup>9</sup>. The aim of the proposals are to reduce and simplify the reporting burden for firms subject to Solvency II and include:

- An ITS on the templates for the submission by (re)insurance undertakings to their supervisory authorities of information necessary for their supervision. The ITS can be accessed [here](#).

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<sup>5</sup> Commission Delegated Regulation (EU) 2015/35

<sup>6</sup> 2009/138/EC

<sup>7</sup> Directive (EU) 2025/2

<sup>8</sup> EIOPA-BoS-25/223

<sup>9</sup> Directive 2009/138/EC

- An ITS on procedures, formats and templates for the disclosure by (re)insurance undertakings of their report on their solvency and financial condition. The ITS can be accessed [here](#).
- Guidelines on reporting for financial stability purposes. The Guidelines can be accessed [here](#).
- Guidelines on the supervision of branches of third-country insurance undertakings. The Guidelines can be accessed [here](#).

The deadline for responses is 10 October 2025, the ITS and guidelines will apply from 30 January 2027.

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

## 2.2 Final versions of EIOPA guidance on mass-lapse reinsurance and reinsurance termination clauses

On 15 July 2025, EIOPA published the final versions of its guidance for supervising mass-lapse reinsurance and reinsurance termination clauses designed to promote convergent supervisory approaches across the EU. This guidance was published following EIOPA's 2024 Consultation Paper and takes the form of two Annexes to EIOPA's July 2021 opinion on the use of risk-mitigation techniques by insurance undertakings.

Annex 1 provides detailed guidance to supervisors on the prudential treatment of mass-lapse reinsurance. It mostly provides guidance on how supervisors should assess the impact of certain key elements of mass lapse reinsurance treaties on the effectiveness of transfer risk and on the solvency capital requirement (SCR) of the undertaking involved.

Annex 2 focuses on certain features of reinsurance agreements' termination clauses that may undermine the effective transfer of risk. It also examines cases where reinsurance contracts involve asset transfers and includes terms that on termination permit the reinsurer to unconditionally retain all transferred premiums and assets while simultaneously being freed from any remaining obligations.

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

## 2.3 EIOPA opinion on AI governance and risk management

On 6 August 2025, EIOPA published the final version of its opinion<sup>10</sup> and impact assessment<sup>11</sup> on artificial intelligence (AI) governance and risk management. The opinion has been issued in light of legislation affecting the sector: the Solvency II Directive and Delegated Regulation, the Insurance Distribution Directive and Delegated Regulation and the digital operational resilience act (DORA).

The opinion is aimed at national competent authorities (NCAs) and explains supervisory expectations in the context of AI systems. The approach taken by EIOPA in the opinion is risk-based and proportionate and aims to set a base line for the use of AI in the insurance sector. It advises firms to assess the risks of different AI use cases and develop governance and risk management frameworks proportionate to the risks. The opinion highlights the key principles that need to be embedded into existing risk management frameworks and adapted to the different specificities of the AI systems used.

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

## 2.4 EIOPA consults on IRRD technical standards

On 22 July 2025, EIOPA published the following consultation papers related to the implementation of the Insurance Recovery and Resolution Directive (IRRDR):

- A consultation paper relating to draft regulatory technical standards (RTS) on functioning of the resolution colleges. These RTS contain provisions related to the establishment and operation of resolution colleges and processes for

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<sup>10</sup> EIOPA-BoS-25-360

<sup>11</sup> EIOPA-BoS-25-363

reaching joint decisions on the development of group resolution plans. Additionally, they cover the assessment of resolvability, measures to address impediments to resolvability and the governance of cross-border resolution groups. A full copy of the consultation can be accessed [here](#).

- A consultation paper relating to draft implementing technical standards (ITS) on resolution reporting. These ITS contain provisions specifying procedures and a minimum set of standard forms and templates for the provision of information to insurers by resolution authorities to enable resolution authorities to develop and implement resolution plans. The consultation paper can be accessed [here](#). The draft templates can be accessed [here](#) while instructions on how to complete them can be accessed [here](#).

The deadline for responding to the consultation is 31 October 2025.

Member States shall apply measures implemented from the IRRD by 30 January 2027.

## **2.5 EIOPA statement on findings of monitoring exercise on use of climate change scenarios in ORSA**

On 23 July 2025, EIOPA published a statement on the findings of a monitoring exercise on the use of climate change in the own risk and solvency assessment (ORSA). This follows an EIOPA monitoring exercise which was undertaken in 2024 to address how firms have implemented the use of climate change scenarios in the ORSA. The exercise covered 26% of EEA insurance and reinsurance undertakings with a market coverage of 85%.

Overall, EIOPA found a positive shift in risk management of climate change risks. Climate change risks are now increasingly prevalent in ORSA, both transition and physical risks, with scenario analysis a particular element of assessing the financial impact of these risks. However, they did note certain areas for improvement including:

- Variance in the assessment of climate change risks across jurisdictions and firms leading to differences in assessments and outcomes between countries.
- Difficulty in the application of long-term climate change scenarios leading to limited integration of material climate risks into strategic decision-making and capital planning.

EIOPA notes improvements in the supervision of climate change-related risks by national competent authorities (NCAs) and expects NCAs to continue to prioritise improvements in supervisory capacity and convergence.

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

## **2.6 EIOPA follow-up report to 2022 peer review on outsourcing**

On 24 July 2025, EIOPA published a follow-up report<sup>12</sup> on its 2022 peer review on outsourcing<sup>13</sup> under the Solvency II Directive<sup>14</sup> framework.

The report details the findings from EIOPA's review of how National Competent Authorities have implemented the recommendations of its 2022 report aimed at enhancing consistency and effectiveness in supervising outsourced activities.

The follow-up review confirms that substantial progress has been made by NCAs to strengthen their outsourcing provisions, noting that 51 of the 77 recommended actions in the 2022 report had been assessed as 'fulfilled' with a further 22 assessed as 'partially fulfilled'. Furthermore, many NCAs have adopted a data-driven and risk-based approach to supervision. EIOPA has praised these improvements, noting that they reflect a sector-wide recognition of outsourcing and a commitment to meet expectations. However, they also identified areas that require further attention:

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<sup>12</sup> EIOPA-BoS-25-400

<sup>13</sup> EIOPA-BoS-22/383

<sup>14</sup> 2009/138/EC

- Off-site supervision: EIOPA has noted that this remains uneven across jurisdictions.
- Consistent embedding of internal procedures and full operationalisation of supervisory tools: Supervisory practices must become more dynamic, co-ordinated and forward-looking.

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

## 2.7 EIOPA Q&As 2025 (updated 11 August 2025)

On 11 August 2025, EIOPA published an updated list of Q&As. This follows on from the previous list which was released in December 2024. It consists of all questions and corresponding answers that have been published since January 2025.

The objective of EIOPA's Question and Answer process on regulation is to ensure consistent and effective application of European Regulation and to foster supervisory convergence across EIOPA's scope of action. The process allows any natural or legal person, including financial institutions, competent authorities and Union institutions and bodies to submit questions relating to application or implementation of the provisions of legislative acts<sup>15</sup>.

While the answers provided by EIOPA are of huge practical significance, they have no binding force in law.

A full copy of the Q&As can be found [here](#).

## 2.8 EIOPA annual work programme 2026

On 30 September 2025, EIOPA published its annual work programme for 2026 and a document outlining its supervisory focus areas for 2026.

The main areas of focus are as follows:

- Digital operational risk – this is expected to be a key priority and focus area for EIOPA. EIOPA will assist national competent authorities with identifying and mitigating risks associated with AI and assessing whether ICT risk management frameworks are in line with the business and strategy of a firm.
- Sustainability risks – there will be a focus on promoting best practice for insurers to improve their risk assessment and deliverance of an effective risk-based supervision of sustainability risks. The assessment of sustainability risks will focus on the prudential risk management and scenario analysis of risks and claims and also the treatment of consumers in light of sustainability.
- Policy – another priority area will be the update of technical standards, guidelines and reports following a review of [Solvency II](#) along with execution of the initial phase of implementing the Retail Investment Strategy.
- Financial – EIOPA will implement relevant provisions under the [Insurance Recovery and Resolution Directive \(\(EU\) 2025/1\) \(IRRD\)](#) which forms part of its work in improving crisis prevention and preparedness.

In addition to the above, EIOPA and national competent authorities will carry out other supervisory functions that may complement work on the focus areas and areas identified as requiring attention.

A link to the EIOPA annual work programme for 2026 can be found [here](#).

A link to the EIOPA document detailing the supervisory focus areas for 2026 can be found [here](#).

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<sup>15</sup> Regulation (EU) No 1094/2010

## 2.9 EIOPA letter to European Commission on proposed Solvency II amendments to capital relief

On 30 September 2025, EIOPA published a letter it sent to the European Commission on the proposed level 2 amendments to the [Solvency II Directive](#).

In July 2025, the Commission had consulted on a draft Delegated Regulation to amend [Commission Delegated Regulation \(EU\) 2015/35](#) pursuant to amendments to the Solvency II Directive which were made by [Solvency II Amending Directive \(EU\) 2025/2](#). See 1.3 above.

EIOPA have expressed concern in respect to the extent of capital relief that the Solvency II review would provide, specifically in respect to level 2 of Solvency II which provides for the valuation of insurance liabilities and the calculation of capital requirements, given the already agreed level 1 changes and proposed level 2 changes. They state that both the level 1 changes and proposed level 2 amendments would result in a 39% reduction of the risk margin of insurance liabilities.

EIOPA further express concern that if requirements are lowered with the result of a significant impact as is anticipated pursuant to the consultation proposal, this would have an effect of the resilience of the sector. EIOPA noted the key objectives of Solvency II are the protection of policyholders and the provision of financial stability.

A copy of the letter is available [here](#).

## 3 ANTI-MONEY LAUNDERING (AML) AND COUNTERING THE FINANCING OF TERRORISM (CFT)

### 3.1 Delegated Regulation amending list of high-risk third countries under MLD4 published in OJ

On 16 July 2025 Commission Delegated Regulation (EU) 2025/1184 was published in the Official Journal (**Amending Regulation**).

This amends a previous Commission Delegated Regulation<sup>16</sup> containing the list of high-risk third countries with strategic anti-money laundering (**AML**) and countering the financing of terrorism (**CFT**) deficiencies.

The Amending Regulation updates the table of high-risk countries in the annex to Commission Delegated Regulation 2016/1675 by:

- **Adding:** Algeria, Angola, Côte de Ivoire, Kenya, Laos, Lebanon, Monaco, Namibia, Nepal, Venezuela.
- **Removing:** Barbados, Gibraltar, Jamaica, Panama, the Philippines, Senegal, Uganda and the United Arab Emirates.

The Amending Regulation can be accessed [here](#).

## 4 CENTRAL BANK OF IRELAND

### 4.1 Central Bank of Ireland publishes revised Operational Resilience Guidance

In July 2025 the Central Bank published its revised cross industry guidance on Operational Resilience (**Revised Guidance**). The Revised Guidance is applicable from 14 July 2025 and replaces the previous version that applied from 1 December 2021 to 13 July 2025.

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<sup>16</sup> Delegated Regulation (EU) 2016/1675

The Revised Guidance:

- requires all in-scope firms to complete an annual self-assessment of their operational resilience framework;
- extends the requirement to map dependencies on outsourced service providers that support critical or important business services to include any third-party service provider;
- clarifies its expectations for alignment with DORA for both firms that fall within the scope of DORA and those regulated firms which do not fall within the scope of DORA. The Central Bank requires firms that are not subject to DORA to consider implementing equivalent ICT risk management measures, including the DORA ICT Simplified Risk Management Framework;
- moves from a narrow focus on “outsourced service providers” to “third party service providers”;
- recognises that operational resilience and operational risk are distinct concepts;
- clarifies that critical or important business services must be external facing with identifiable end users; and
- withdraws its September 2016 Cross Industry Guidance in respect of Information Technology and Cybersecurity Risk Management to ensure regulatory simplification and clarity.

A copy of the Revised Guidance is available [here](#).

## 5 DORA

### 5.1 ESAs publish guide on DORA oversight activities

On 15 July 2025, the ESAs published a guide on oversight activities under DORA. The guide was published in order to provide an overview of the processes used by the ESAs through the Joint Examination Teams (**JET**) to oversee critical Information and Communication Technology (**ICT**) third party service providers (**CTPPs**).

The guide provides a high-level overview of the CTPP Oversight framework, oversight process, governance structure, founding principles and tools available to overseers.

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

## 6 MISCELLANEOUS

### 6.1 EU-UK Personal Data Transfers

On 22 July 2025, the European Commission announced that it has launched the process to adopt new adequacy decisions to allow the free flow of personal data between the EEA and the United Kingdom following its assessment of the recently adopted UK Data Use and Access Act which it has concluded continues to provide data protection safeguards which are essentially equivalent to those provided by the EU.

This follows the publication of a decision of the European Commission in June 2025 to extend the existing adequacy decisions under which the free flow of personal data from the EU to the UK can continue until 27 December 2025 (**June 2025 Adequacy Decision**).

A copy of the June 2025 Adequacy Decision is accessible [here](#).

## 6.2 European Commission Recommendation on Savings & Investments Accounts and Financial Literacy Strategy

On 30 September 2025, the European Commission published a Commission Recommendation titled “Increasing the Availability of Savings and Investments Accounts with Simplified and Advantageous Tax Treatment” (**Commission Recommendation**).

The Commission Recommendation forms an integral part of the European Commission’s savings and investments union strategy to enhance financial opportunities for EU citizens and businesses unveiled in March of this year.

In it, the European Commission recommends to EU Member States that they should establish savings and investment accounts (**SIA**) frameworks which should have the specific characteristics identified by it in the Commission Recommendation. To the extent that individual Member States have already introduced such frameworks, they should assess such frameworks against the Commission Recommendation to ensure that they are aligned with same.

The objective of the SIA framework is to provide EU retail investors with “simple and accessible investment opportunities”.

The Recommendation sets down specific parameters for such SIA frameworks relating to the provision of such SIAs, the costs associated with opening and operating such SIA, the scope of assets which could be held by those SIA as well as recommendations relating to beneficial tax treatment and facilitated tax compliance for such accounts.

Alongside the Commission Recommendation, the European Commission also published a communication on its Financial Literacy Strategy which is based on four pillars of action being (i) coordination and best practices, (ii) communication and awareness raising, (iii) funding for financial literacy initiatives including for research and (iv) monitoring progress and assessing impact.

A copy of the Commission Recommendation is available [here](#).

A Dillon Eustace analysis of the Commission Recommendation is available [here](#).

A copy of the European Commission’s communication on its Financial Literacy Strategy is available [here](#).

## 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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