

ESRB advice to EIOPA on the Guidelines on supervisory powers to remedy liquidity vulnerabilities (Article 144b(8) Solvency II)

Summary

Article 144b(8) of the Solvency II Directive (“Solvency II”)¹ mandates the European Insurance and Occupational Pensions Authority (EIOPA), after consulting the European Systemic Risk Board (ESRB), to develop guidelines on supervisory powers to remedy liquidity vulnerabilities in insurers. EIOPA is mandated to develop guidelines specifying: “(a) the measures to address deficiencies in liquidity risk management and the form, activation and calibration of powers that supervisory authorities may exercise to reinforce the liquidity position of undertakings where liquidity risks are identified and not adequately remedied by those undertakings; (b) the existence of exceptional circumstances that justify the temporary suspension of redemption rights; and (c) the conditions for ensuring the consistent application of the temporary suspension of redemption rights as a last resort measure across the Union and the aspects to consider for equally and adequately protecting policy holders in all home and host jurisdictions”. On 9 October 2025 EIOPA launched a public consultation on its draft Guidelines.² This advice is the ESRB’s response to EIOPA’s consultation.

The ESRB welcomes EIOPA’s proposed Guidelines and supports EIOPA’s preferred policy options. The ESRB believes that EIOPA’s approach provides a good balance between granularity and flexibility in the context of the scope of the guidelines required under Article 144b(8). EIOPA’s approach and the preferred policy options EIOPA included in its impact assessment (Annex I of the consultation paper) will support harmonisation and the consistent application of Article 144b(8). The remainder of this document provides the context for the ESRB’s response and describes the considerations that informed the response.

Context

Article 144b grants supervisory authorities’ powers to remedy liquidity vulnerabilities. Article 144b(1) to (3) requires supervisory authorities to monitor insurers’ liquidity. Where supervisors identify material liquidity risks or deficiencies in liquidity risk management, they should ask insurers to explain how they intend to address such vulnerabilities. Moreover, Member States must ensure that supervisory authorities have the necessary powers to

¹ Directive (EU) 2025/2 of the European Parliament and of the Council of 27 November 2024 amending Directive 2009/138/EC as regards proportionality, quality of supervision, reporting, long-term guarantee measures, macroprudential tools, sustainability risks and group and cross-border supervision, and amending Directives 2002/87/EC and 2013/34/EU (OJ L, 2025/2, 8.1.2025).

² EIOPA Consultation on Guidelines on powers to remedy liquidity vulnerabilities.

act, so that supervisors can require insurers to restore their liquidity position. Article 144b(3)(a) to (e) sets out several supervisory measures that can be applied on a temporary basis. One of these measures – the suspension of redemption rights under Article 144b(3)(e) – can only be applied as a last resort in exceptional circumstances. As part of this, supervisors should consider whether individual undertakings facing material liquidity risks may pose an imminent threat to policyholder protection or to the stability of the financial system. Article 144b(4) and (5) also considers the application of the proportionality principle and the importance of the supervisory review process in informing and evidencing the supervisors' decision-making process. Article 144b(6) elaborates on factors supporting the application of supervisory powers in exceptional circumstances, as well as the need to ensure proper coordination and exchange of information between different authorities.

The ESRB has previously shared its perspectives on the importance of the supervisory measures provided for under Articles 144a to 144d, including measures for monitoring and addressing liquidity vulnerabilities.

The ESRB response to EIOPA on the criteria for the identification of exceptional sector-wide shocks (Article 144c(7)) described the ESRB's perspective on guidelines and other regulatory technical standards supporting the new supervisory provisions under Articles 144a to 144d.³ This included the need: (i) for guidelines supporting the new supervisory provisions to be considered in a holistic manner to ensure consistency and facilitate an overarching view of macroprudential considerations, and highlighting the importance of looking at interlinkages across Articles 144a to 144d; and (ii) to reflect on the common considerations under Articles 144b and 144c, and the importance of considering protection of policyholders and financial stability when applying new supervisory powers granted under those articles. The content of that earlier ESRB response to EIOPA serves as background for this response.

The EIOPA Guidelines under consultation aim to ensure that the new measures supervisors can take are implemented consistently and swiftly with clear communication channels. The ESRB has emphasised the importance of authorities having harmonised mechanisms at their disposal which must allow the necessary flexibility to apply the new supervisory measures as effectively as possible.⁴ Similarly, the ESRB has also pointed out that liquidity risk may be pervasive. Hence, timely identification, monitoring and mitigation are needed to help preserve the financial positions of insurers and the financial stability of the sector.⁵ Solvency II already provides a robust framework for supervision, and EIOPA's Guidelines will play an important role in protecting policyholders and/or financial stability. Nonetheless, the application of the supervisory tools as laid out in Article 144b is new to many insurers and supervisors. It is therefore important that the guidelines supporting the new supervisory powers to remedy liquidity deficiencies adhere to EIOPA's current approach. This will support consistent application and harmonisation.

³ See ESRB (2024), "ESRB advice to EIOPA on the criteria for identification of exceptional sector-wide shocks (Article 144c(7))", 19 December.

⁴ See page 13 of ESRB (2024).

⁵ See page 17 and Appendix I of ESRB (2024).

Considerations informing this ESRB advice

Guidelines should guide both insurers and supervisors in applying the activation criteria and indicators for activating supervisory powers under Article 144b. In respect of the indicators or deficiencies, it is helpful to also consider counterparties, which can be an important exogenous source of liquidity risk for insurers. Considering the diversity of insurers' business models and liquidity risk profiles, it is positive that the Guidelines elaborate on the form, calibration and activation of supervisory powers to reinforce the liquidity position. This will bring a level of consistency of application across supervisory review approaches. EIOPA's Guideline 3 (activation of supervisory powers to reinforce the liquidity position) and EIOPA's preferred policy option (B.2) in its impact assessment give the necessary guidance to insurers on the supervisory assessment to identify whether material liquidity risks persist despite the insurer's earlier remedial actions.

Including a non-exhaustive list of plausible supervisory actions that an insurer could be required to implement provides clarity both to insurers and supervisors. In order to support the consistent application and harmonisation of the supervisory actions and powers granted under Article 144b, the Guidelines should assist in setting clear expectations for insurers by providing examples or a non-exhaustive list of supervisory actions/measures that could be taken if an insurer has failed to take timely and effective action to address its liquidity deficiencies. EIOPA's Guideline 1 (supervisory measures to address deficiencies in liquidity risk management) and EIOPA's preferred policy option (A.2) in its impact assessment provide guidance on supervisory monitoring of the implementation of remedial actions and the supervisory measures that could be taken to ensure that an insurer addresses material liquidity deficiencies.

The supervisory assessment of exceptional circumstances should consider both macro- and microeconomic factors as well as market-specific conditions and entity-specific developments.⁶ The supervisory interventions envisaged under Article 144b serve two objectives: protection of policyholders and safeguarding the stability of the financial system. To this end, a comprehensive supervisory assessment would need to look at all relevant elements that may contribute to identifying events that could trigger supervisory intervention. This includes risks from counterparties, sources of leverage and off-balance sheet items. In this context, considering macro- and microeconomic elements as well as market and entity-specific developments will assist supervisors in assessing whether one or more events (as outlined in the EIOPA Guidelines) will pose a material liquidity strain on an insurer. It will also help supervisors to assess remedial actions and decide whether they should exercise the powers granted to them under Article 144b(3). EIOPA's Guideline 4 (exceptional circumstances that justify the temporary suspension of redemption rights) and EIOPA's preferred policy option (C.2) in its impact assessment will ensure that relevant elements are considered by supervisors when assessing whether exceptional circumstances exist that justify the temporary suspension of redemption rights.

Strong cooperation and information exchange between supervisory authorities is crucial when managing vulnerabilities in the insurance sector. This is a precondition for success in managing risks and vulnerabilities,

⁶ The exceptional circumstances are set out in Article 144b(3).

including those related to liquidity. It requires an agile framework that supports swift decision-making while maintaining policyholders' confidence during critical times. It should consider unintended behavioural reactions by insurers (e.g. herd behaviour) during periods of exceptional circumstances. As noted in the ESRB's response to EIOPA's consultation on Article 144c(7), cooperation and supervisory convergence play an important role in ensuring that tools are effectively applied and that supervisory powers are deployed swiftly when required. Furthermore, when macroprudential and microprudential authorities are not integrated, there should be clear communication channels to monitor and measure risks of stress transmission and amplification and to swiftly apply the supervisory measures provided for in Solvency II. Clear ex ante and ex post provisions on the assessment of the temporary suspension of redemption rights will enhance the application of the provisions outlined in the Guidelines. The provisions in EIOPA Guideline 5 underscore not only the need for supervisory authorities to act swiftly, but also the importance of sharing information and acting in a transparent manner. Such elements will help ensure an orderly response in exceptional circumstances, preventing panic effects, limiting contagion risks and addressing any related concerns. EIOPA's Guideline 5 (protection of policyholders in all home and host jurisdictions and consistent application of the temporary suspension of redemption rights) and EIOPA's preferred policy option (D.1) in its impact assessment provide sufficient guidance for supervisory authorities to assess the cross-border implications of the temporary suspension of redemption rights and the need to also perform an ex post assessment exercise.