



Resolution

**Adoption of the first preventive
resolution plans for insurance
undertakings**

Resolution Directorate

MARCH 2023

Adoption of the first preventive resolution plans for insurance undertakings

Table des matières

I. MAIN ELEMENTS OF THE RESOLUTION FRAMEWORK FOR INSURANCE UNDERTAKINGS.....	3
II. WORK ON THE FIRST PREVENTIVE RESOLUTION PLANS ADOPTED BY THE ACPR...4	
A. Content of the plans.....	4
B. Identification of critical functions	7
C. Analysis of internal and external interconnections.....	8
D. Resolution tools and strategies	9
III. CONCLUSION	10

Pursuant to Article [L. 311-8](#) of the *Code des assurances*, the Resolution College adopted, after receiving the opinion of the Supervisory College, the first preventive resolution plans for insurance undertakings subject to the preventive part of the French recovery and resolution regime at the end of 2022 and at the beginning of 2023.

Preventive resolution plans are drafted in advance of any crisis. In the event of an insurance undertaking failure (or of several undertakings within an insurance group), the plans should make it possible to determine which measures would be necessary to achieve the resolution objectives. In particular, they should identify any critical functions performed by the insurance undertaking and the preferred resolution strategy. If critical functions are identified, the preferred resolution strategy should ensure their preservation by using the instruments provided for by the regulations. In the absence of critical functions, this strategy would be the liquidation of failing undertakings.

I. MAIN ELEMENTS OF THE RESOLUTION FRAMEWORK FOR INSURANCE UNDERTAKINGS

In 2017, France was one of the first EU Member States to adopt a recovery and resolution regime for insurance undertakings¹. With the creation of this regime, the *Autorité de contrôle prudentiel et de résolution* (ACPR), the banking sector resolution authority since 2013, also became the resolution authority for the insurance sector.

According to Article [L. 311-22](#) of the *Code des assurances*, the resolution regime aims to ensure the continuity of critical functions, avoid or mitigate negative effects on financial stability, protect the resources of the State from recourse to exceptional public financial assistance and protect the rights of policyholders and beneficiaries of insurance coverage.

For that purpose, French regime applies to all undertakings subject to Solvency II, insurance group companies, entities of an insurance group providing services which are essential for the activities of the group and supplementary occupational pension institutions.

However, taking proportionality into account, the preventive part of this regime only applies to groups and undertakings with a balance sheet exceeding EUR 50 billion or performing critical functions². Those groups and undertakings must draw up and update, at least every two years, a preventive recovery plan. The ACPR then analyzes the resolvability of these groups and undertakings in the event of a crisis and prepares their preventive resolution plans.

The conditions for entry into resolution and the ACPR's resolution powers are defined by law. Accordingly, a resolution may be initiated only if certain conditions are met.

First, an organization must be failing or likely to fail³. This may be the case where the undertaking no longer covers the Solvency Capital Requirement (SCR) or no longer complies

¹ See [Order No. 2017-1608 of 27 November 2017](#), adopted on the basis of the authorization contained in section V of Article 47 of Law No. 2016-1691, known as the Sapin 2 Law, of 9 December 2016 and codified in Chapter II "Crisis prevention and management measures" of Title I of Book Three of the Insurance Code.

² See I of Article [L. 311-5](#) and [A. 311-1](#) of the *Code des assurances*.

For the first resolution preparation cycle, 14 undertakings or groups are above the regulatory threshold. However, only 13 preventive resolution plans were adopted because one group changed structure and had to submit a new group preventive recovery plan to the Supervisory College.

³ See II of Article [L. 311-18](#) of the *Code des assurances*.

with its license requirements. In addition, only undertakings with positive net assets may be placed under resolution. Finally, since resolution is an exorbitant mechanism under the ordinary law, it can only be implemented if there is a public interest in line with the objectives of resolution⁴.

The ACPR has three instruments at its disposal following the entry into resolution of an insurance undertaking:

- portfolio transfer⁵;
- bridge undertaking⁶;
- liability management structure⁷.

Compared to the banking sector, there is no bail-in tool⁸, or its corollary, a minimum requirement for eligible liabilities (*minimum requirement of eligible liabilities* or MREL) or resolution funds. This explains the condition of positive net assets for entry into resolution: without internal bail-in tools, the ACPR would not be able to resolve undertakings with asset shortfall.

All three resolution tools for insurance undertakings are therefore based on the principle of the transfer of activities to be safeguarded (i.e. the critical functions, plus, where appropriate, activities representing a significant source of revenue or profit), and then the liquidation of the residual undertaking.

The portfolio transfer consists in transferring all or part of a portfolio of insurance contracts from the failing undertaking to another duly authorized insurance undertaking chosen by means of a call for tenders.

The main purpose of the bridge undertaking is to temporarily hold the insurance liabilities and related assets to be safeguarded, in whole or in part, with the objective of selling them to the market. The bridge undertaking is a legal person, created as a public limited company and distinct from the undertaking under resolution.

The liability management structure shall be set up as a trust, intended to hold insurance portfolios, in whole or in part, for run-off purposes. In principle, this hive-off structure ensures the restructuring of a critical insurance portfolio. It receives insurance liabilities with intrinsic characteristics which make them difficult to manage (profitability, regulatory capital requirements, etc.).

II. WORK ON THE FIRST PREVENTIVE RESOLUTION PLANS ADOPTED BY THE ACPR

A. The content of the plans

⁴ See Article [L. 311-22](#), Section I, of the *Code des assurances*.

⁵ See point 4 of Article [L. 311-30](#) of the *Code des assurances*.

⁶ See Article [L. 311-35](#) of the *Code des assurances*.

⁷ See Article [L. 311-41](#) of the *Code des assurances*.

⁸ Bail-in, or “reduction of liabilities”, is not provided for in the Insurance Code, except in the specific case of a reduction of liabilities when a portfolio transfer is made.

The content of preventive resolution plans (hereinafter resolution plans) is defined in Article [A. 311-4 of the *Code des assurances*](#), which details the elements to be covered by the resolution authority, supplemented, where appropriate, by any opinion expressed by the person concerned or by the group in relation to the preventive resolution plan.

Resolution plans shall contain various elements grouped into six main parts:

1. a summary of the key elements of the plan;
2. a strategic analysis of the Group's activities, which includes a detailed description of the Group, its legal and organizational structure, its activities⁹ and main counterparties, the identification of critical functions and an analysis of their separability from the rest of the Group;
3. the resolution strategy in relation to stress scenarios;
4. financial and operational continuity, including the availability and the accessibility of IT infrastructure;
5. the communication strategy under resolution;
6. the resolvability analysis and, if applicable, measures to remove impediments to resolvability.

Each plan is intended to be, over time, an operational document ready to be implemented in case of the insurance undertaking failing or being likely to fail.

As in the banking sector, where the drafting of plans is an iterative process spanning several years, the drafting of insurance undertakings' first plans focused mainly on analyzing the business model, analyzing critical functions and their separability, and on the preferred resolution strategy. The plans will then be further developed over the coming resolution cycles and will cover all the elements needed to operationalize the resolution strategies.

Resolution plans are based on the recovery plans submitted by undertakings to the ACPR and on which the Resolution College provides an opinion before the Supervisory College final approval. Undertakings must indeed identify the critical functions themselves in their recovery plans and the separability of these critical functions from the rest of the undertaking, and detail the undertaking or group's internal and external interdependencies.

⁹ With the description of the group structure, the detail of the technical and non-technical liabilities, off-balance sheet and reinsurance.

The content of preventive resolution plans (Article [A. 311-4](#))

1. a description of the legal and organizational structure of the person concerned and, where applicable, of its subsidiaries, branches and the group to which it belongs;
2. an analysis of the consequences of a total or partial failure of the person or group concerned, based in particular on the consequences for reinsurers or any other player in the financial sector;
3. a mapping of the critical functions of the person or group concerned, which specifies the balance sheet items associated with these functions, analyzes the separability of these functions from the other activities of the person or group and specifies which internal or external entities these functions depend financially, legally or in terms of human resources or IT systems to ensure the continuity of their activity;
4. a detailed description of the technical and non-technical liabilities of the undertaking concerned and its subsidiaries;
5. a description of the guarantees encumbering the assets of the undertaking concerned and its subsidiaries and their off-balance-sheet exposures as well as any significant operations involving reinsurance or coverage, in particular when these elements are related to critical functions;
6. an identification of the main counterparties of the person concerned or of the group to which it belongs and an analysis of the financial consequences for the person concerned or the group to which it belongs of the failure of these counterparties;
7. a detailed description of the different resolution strategies that can be applied depending on the different possible scenarios and the time required;
8. a description of the procedures ensuring the continuity of operations that will be maintained under the resolution strategies;
9. a description of the arrangements for the flow of information between the undertaking concerned and the resolution authority, specifying the communication strategy to be implemented within the undertaking concerned and with regard to the public;
10. an analysis of the impact of the plan on the staff of the concerned undertaking, including the costs involved, and a description of the planned procedures for consulting staff during the resolution process;
11. an analysis of the resolvability of the undertaking concerned mentioned in Article [L. 311-11](#) and, if necessary, the measures to be taken to remove the impediments to resolvability.

B. Identification of critical functions

The content of the first plans takes into account all the preparatory work conducted by the ACPR's Resolution Directorate since 2020. In particular, in January 2021, the Resolution College published a first methodological approach on the identification of critical functions, which was the subject of prior consultation with the undertakings concerned. This approach is based on the principles developed at international level by the FSB and consists of two steps:

- the definition of a list of functions deemed critical due to their nature;
- determining a criticality threshold.

The definition of functions deemed critical due to their nature is derived from:

- (i) the **characteristics of the activities**, in particular the nature of the guarantees, the compulsory nature, the duration of the commitments and the type of counterparty (individuals, undertakings, associations, etc.);
- (ii) the **analysis of the impact of a failure** of an undertaking on the real economy or financial stability, which depends on the impact of a breach of protection on policyholders and of an inability for the group concerned to honor its commitments on policyholders or beneficiaries;
- (iii) the **analysis of substitutability**, at a reasonable cost and within a reasonable time, taking into account the volume of portfolios to be transferred, the degree of standardization of products and obstacles to regulatory, legal, operational transfers...

Based on these different methodological principles, the ACPR's Resolution College deemed six functions to be critical by nature:

- savings in euro and unit-linked;
- motor insurance including civil liability;
- medical liability;
- construction;
- agricultural insurance;
- credit insurance and bonding.

Based on an estimate of the market's capacity, a **quantitative criticality threshold of 10%**¹⁰ was set, making it possible to identify, for each of these activities deemed critical by nature, the insurance undertakings or groups that actually perform critical functions.

Building on exchanges with undertakings and additional information collected, work continued in 2022 to deepen the criticality analysis of three critical functions: savings, auto insurance and agricultural insurance.

With regard to additional work on savings, the possibility of a split between activities in euro and unit-linked was analyzed. While each of these activities has different characteristics, discontinuing them would likely have different consequences for the real economy or financial stability. However, from an operational point of view, separating the euro savings business from the unit-linked savings business would be complex to implement, especially since savings contracts are mostly multi-support and the operational management and marketing of these two types of savings vehicles are generally based on common resources.

¹⁰ The application of the criticality threshold might not be automatic. The definition of the degree of criticality could also involve an expert judgement component.

With regard to motor insurance, the relevance of disentangling the market for individuals from that for businesses was investigated. The corporate market is characterized by greater intermediation on the part of policyholders, who entrust brokers with finding the contracts best suited to their needs, and by a mass effect linked to fleet contracts covering a large number of vehicles each. These features could enhance the substitutability of corporate contracts. However, the share of intervention by brokers varies even more strongly between insurance undertakings in all motor insurance activities combined than between the two business segments. Moreover, the analysis shows that the two markets are highly interconnected economically, and that a regulatory evolution would affect both segments. Finally, claims management is generally mutualized for both markets¹¹.

For agricultural insurance, a more granular analysis was performed distinguishing multi-risk insurance for crops, tractor and machinery insurance and multi-risk agricultural insurance respectively. Each insurance has distinct characteristics, notably that insurance for tractors and farm machinery is more akin to car insurance, while multi-risk insurance for crops is more akin to multi-risk home insurance. However, from an operational and commercial point of view, these three insurances are difficult to separate as they constitute a package offered by the insurer to farmers. It should be noted that the criticality of agricultural insurance should be reviewed once the reform of multi-risk agricultural insurance is definitively put in place in France.

As its preliminary analyzes of the criticality of savings, auto insurance and agricultural insurance were supported by its additional work, the College maintained its previously published list of critical functions by nature.

On that basis, after application of the 10% market share threshold adopted by the College, if no critical function is chosen, and after analysis of their various activities, the preferred resolution strategy applied is judicial liquidation.

C. Analysis of internal and external interconnections

The analysis of the critical functions separability from the rest of the undertaking or group is necessary to ensure operational continuity in the case of a resolution measure. More specifically, this analysis allows the identification of any services, tools, or entities on which these critical functions are financially, legally, or technically, including information technology, linked to ensure their continuity in case of transfers. The analysis of critical functions separability is also carried out by the undertakings themselves in their recovery plan¹².

For these first plans, work was organized with insurance undertakings under the preventive part of resolution regime, to examine internal and external interconnections. To this end, a questionnaire detailing, the operational (including legal opinion), financial¹³ and commercial interconnections (including distribution networks for instance), was sent to them.

In addition to providing undertakings with general information, the work carried out allowed for a better understanding of the interconnections within the undertakings or groups concerned.

¹¹ Motor insurance is compulsory for all retail and corporate segments.

¹² See Section II, Section 3 of Article [A. 311-3](#) of the *Code des assurances*.

¹³ For example, loans and borrowings within a group, external refinancing, securities issued by a group entity marketed in unit-linked contracts.

In addition, for the six insurance undertakings that belong to large banking groups and for which insurance activity represents a significant share of income or savings collection, the analyzes covered, in addition to the interconnections within the insurance undertaking or group, conglomerate interconnections between the insurance undertaking and the rest of the banking group, in order to analyze the interaction of the two preventive recovery and resolution regimes, banking and insurance, in the event of a bancassurance undertaking going into resolution. This work was progressively integrated into the resolution plans of banking groups under the remit of the Single Resolution Board and made it possible to study the consequences of the failure of banking groups for the insurance sector, leading to a general resilience of the insurance sector. A study of contagion from insurance undertakings to the banking sector can then be carried out.

This comprehensive work on interconnectedness has enriched the various plans and highlighted the importance of certain interconnections, such as those with internal reinsurance, the distribution network or those resulting from support mechanisms between members of a group, especially a mutualist group.

This work also contributed to the reflections of the international and European working groups in which the ACPR participates, such as EIOPA and the Financial Stability Board¹⁴.

D. Resolution tools and strategies

The plans shall also specify resolution strategies that could be applied to groups or undertakings performing critical functions, in accordance with different possible crisis scenarios and taking into account different resolution tools¹⁵ used separately or in combination.

At this stage, the planned stress scenarios included in the plans and their impact on undertakings' solvency and liquidity are based on the work carried out by the undertakings themselves in their preventive recovery plan. Undertakings need to develop several scenarios for severe stress, including the possibility of a specific, individual stress situation (idiosyncratic stress) or a crisis situation affecting the entire insurance sector (systemic stress).

In October 2021, the Resolution College published a note on the [implementation of resolution instruments applicable to insurance undertakings and resolution strategies](#). In order to determine the most appropriate resolution strategy for each undertaking and according to the critical functions it performs, the following criteria have been taken into account:

- External factors:

- The nature of the critical function to be safeguarded;
- The degree of market concentration;
- Other external factors that may have an impact on the attractiveness of the portfolios concerned.

- Internal factors:

- The volume of the portfolios involved;
- The undertaking's position in this market;

¹⁴ Cf.: « *Internal Interconnectedness in Resolution Planning for Insurers : Practices Paper* », published in January 2022: <https://www.fsb.org/2022/01/internal-interconnectedness-in-resolution-planning-for-insurers-practices-paper/>

¹⁵ The transfer of portfolios or holdings to another undertaking, to a bridge undertaking or to a liability management structure, *see above*.

- The complexity and degree of standardization of contracts;
- The attractiveness of the portfolios concerned (profitability, technical complexity, quality of the associated assets, etc.);
- Other internal factors that may have an impact on the attractiveness of the portfolios concerned (level of interconnectedness within a conglomerate, etc.).

In the event of the initiation of a resolution procedure, the preferred resolution strategies provided for in the preventive resolution plans are likely to be adapted to the causes of the crisis at the origin of undertakings' situation (either failing or being likely to fail). Whether or not the failure originates in the critical functions is a determining factor in the choice of strategy.

For this first exercise, the Resolution College decided to apply resolution for six insurance undertakings or groups as its preferred resolution strategy, while the remaining seven were to be liquidated by the courts.

The preferred resolution strategies for the six undertakings are primarily based on the portfolio transfer tool, which makes it possible, *a priori*, to preserve critical functions as much as possible and whose feasibility and credibility are examined in the plan in order to ensure the maintenance of the critical function: attractiveness of the critical function, ability of market participants to take over the function, volume of portfolios to be transferred, complexity and structure of the undertakings concerned (mutual organization, bancassurance, holdings, etc.). A bridge undertaking is set up when the conditions for a portfolio transfer are not favorable at the time when the undertaking goes under resolution.

The plans shall also contain a variant of the preferred resolution approach which would be planned in circumstances where it could not be implemented.

Regarding the six plans for resolution adopted during this first cycle, the Resolution College plans to use the transfer instrument (portfolios or holdings) or the bridge undertaking, depending on the case. The tools to be implemented will continue to be further developed and may evolve according to the characteristics of the activities and structures of the undertakings concerned and market conditions.

III. CONCLUSION

The preventive resolution plans, adopted in 2022 and 2023 by the Resolution College after the Supervisory College opinion¹⁶, are the first step of an iterative process based on the preliminary work done by the ACPR and the insurance undertakings under preventive resolution regime.

A summary of each plan has been communicated to the undertakings concerned. In accordance with Article [A. 311-4](#), section 12 of the *Code des assurances*, they may express an opinion on this summary which, if necessary, will be taken into account during the next update of the plan.

In the coming cycles of resolution planning, the plans will be supplemented notably by analyzes to be conducted by the Resolution Directorate and information to be collected from the groups and undertakings concerned in order to cover all the topics needed to operationalize resolution strategies and ensure the resolvability of undertakings.

¹⁶ See I of Article [L. 311-8](#) of the *Code des assurances*

Work initiated with undertakings will help to supplement the plans with in-depth analyzes of resolvability, the operationalization of resolution strategies and, in particular, business continuity arrangements, as well as the communication strategy under resolution. Their ultimate objective is to be an operational document ready to be implemented in the event of the foreseeable or actual failure of an insurance undertaking.

The ACPR is also required to draw up the first preventive resolution plans for groups and undertakings that recently submitted their first preventive recovery plan or are set to do so in 2023, following the identification of critical functions performed by these undertakings with a total balance sheet not exceeding the threshold of EUR 50 billion.

In parallel, the ACPR will continue its work to broaden the criticality analysis scope of the insurance activities carried out on the market, which could lead to the identification of new critical functions, notably niche markets, potentially affecting undertakings that are currently not subject to the preventive component of resolution.

In parallel with this work, the Resolution College will continue to analyze the potential consequences for French law of the proposal for a European directive on the resolution of insurance and reinsurance undertakings, currently being negotiated by the European Parliament, in order to ensure a pragmatic implementation of the existing resolution framework pending the transposition of the adopted directive.