

Market entry, Run-off and market exit from a supervisory perspective

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Disclaimer: Views, thoughts, and opinions expressed in the presentation belong solely to the author and do not necessarily represent FINMA's official policy or position.

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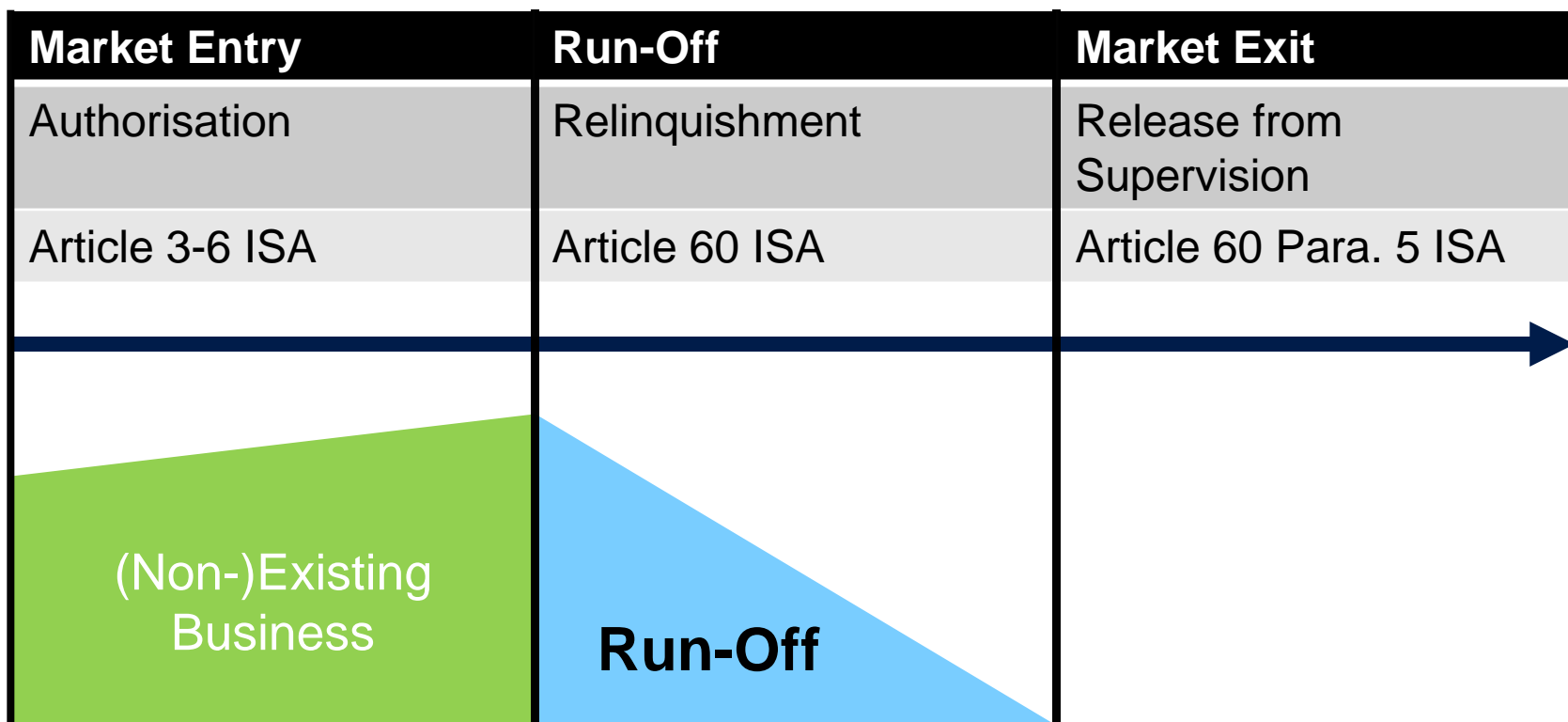
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2. Run-Off and the revision of the Insurance Supervision Act

- No special law

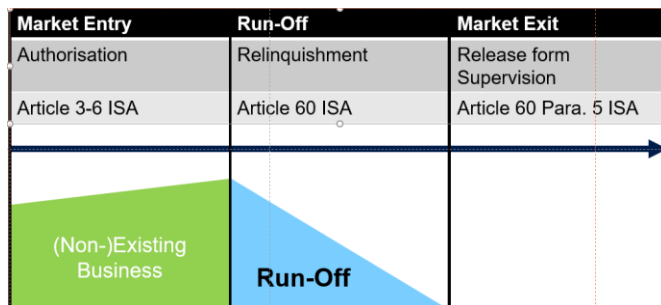
Market entry, Run-off and market exit from a supervisory perspective

Overview: Market Entry – Run-Off – Market Exit



Insurance Supervision Act (ISA); legally binding is only the text in the publication of the Act in the official Swiss languages - Bundesgesetz betreffend die Aufsicht über Versicherungsunternehmen (Versicherungsaufsichtsgesetz, VAG, SR 961.01, [LINK](#)).

Market Entry – Run-Off – Market Exit: Special Cases in the life cycle of an insurer



Special Cases in the life cycle of an insurance company:

- Portfolio-Transfer (Article 62 ISA) or Single Transfer of Contracts
- Other transactions, such as merger, redomiciliation, company purchase etc.
- Withdrawal of authorisation according to Article 61 ISA
- Opening of bankruptcy proceedings according to Article 53 f. ISA

Market Entry



- Legal requirements, such as
 - Business Plan
 - Organisation / Governance
 - Responsible Actuary
 - Branch Manager
 - Minimal Capital
 - Organisation Fund
 - Solvency Requirements
- Initial and running costs
- FINMA's standardized process
- Dedicated teams with experience
- Fast licencing

Market Entry



- 2016: 3 new licences granted
- 2017: 6 new licences granted
- 2018: 4 new licences granted
- BREXIT as a driver for branch licencing
- UK-Swiss Agreement mirroring the International agreement with the EU on direct insurance other than life insurance

(see State Secretariat for International Finance SIF, UK-Swiss Direct Insurance Agreement: [LINK](#))

Market Entry

Insurers and general health insurers

	2017	2016
Life insurers, of which	0	0
– insurers domiciled in Switzerland	0	0
– branches of foreign insurers	0	0
Non-life insurers, of which	2	2
– insurers domiciled in Switzerland	1	1
– branches of foreign insurers	1	1
Reinsurers	2	0
Reinsurance captives	2	1
General health insurers offering supplementary health insurance	0	0
Total	6	3
Insurance groups (groups and conglomerates)	0	0

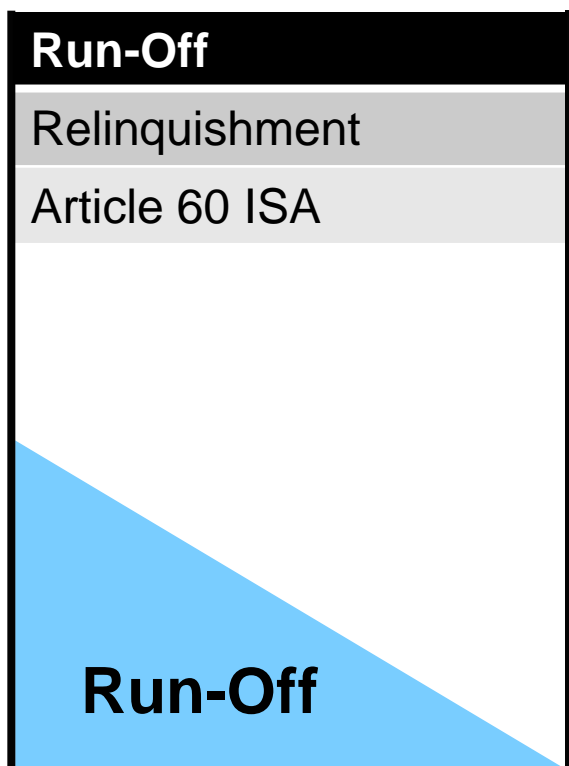
Source: FINMA Annual Report 2017

Market Entry



- Period after market entry is challenging
- Growing business / Capital requirements
- Untested products / non-profitable products
- Critical size
- Exit strategy – and run-off should be considered from the very beginning

Run-Off / Supervisory definition of Run-Off

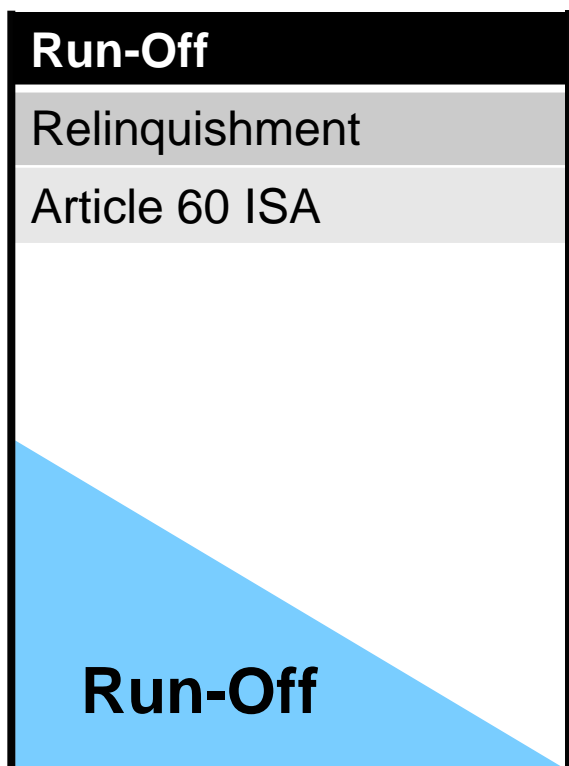


Article 61, Para 1 ISA

Following withdrawal of the authorisation,

- FINMA may withdraw an insurance company's authorisation for insurance activities with respect to one or all insurance lines if it has ceased its business activities for more than six months.
- **Line of business (insurance branch) view**

Run-Off / Supervisory definition of Run-Off

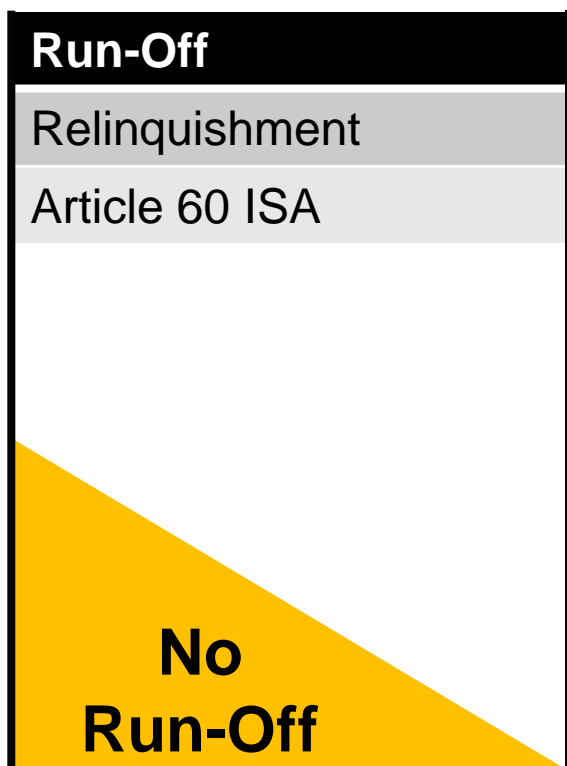


Article 61, Para 3 ISA

Following withdrawal of the authorisation,

- an insurance company may not enter into any new insurance contracts;
 - existing insurance contracts may not be renewed nor may their scope of insurance be extended
- **Total business view of the (legal) entity**

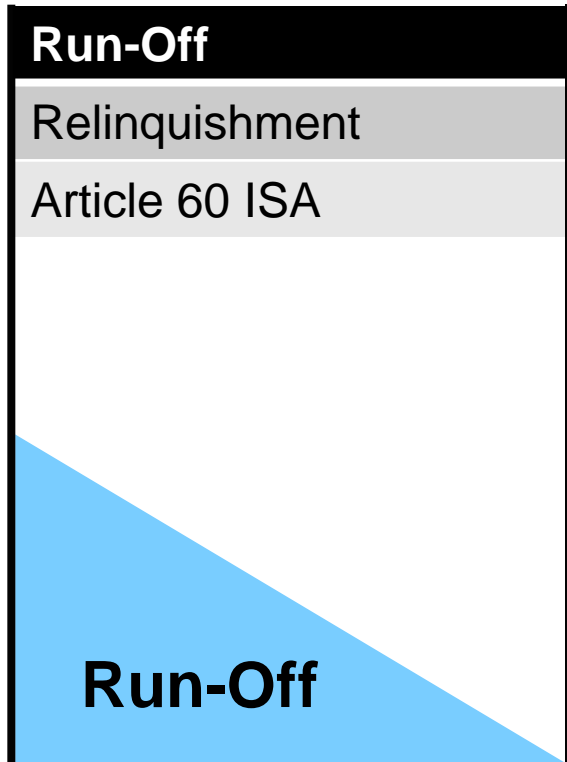
Run-Off / Supervisory definition of Run-Off



Article 52 ISA

- The withdrawal by FINMA of an insurance company's authorisation for business activities shall result in its dissolution. FINMA shall appoint the liquidator and supervise its activities.
- **Liquidation**

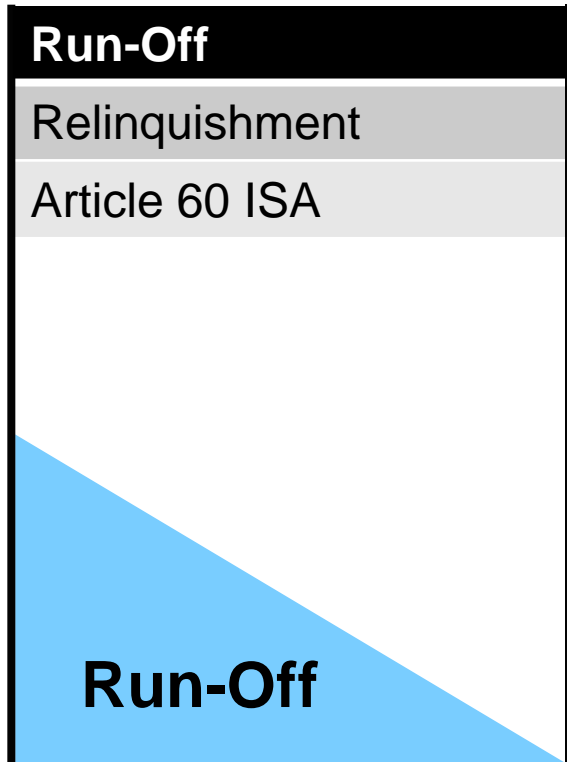
Run-Off-Plan



Article 60, Para 1-3 ISA

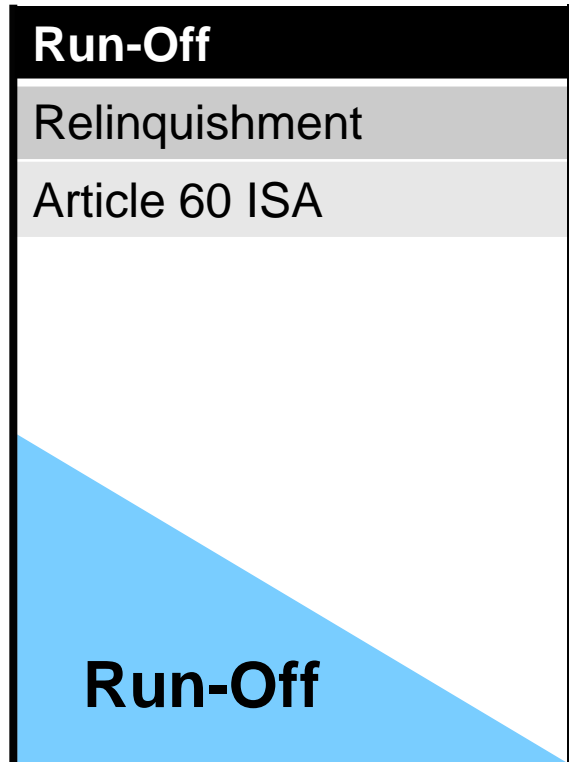
- An insurance company that relinquishes its authorisation must submit a run-off plan for approval to FINMA.
- The run-off plan must include information about:
 - a. the settlement of the financial obligations arising from the insurance contracts;
 - b. the resources allocated to this effect; and
 - c. the person responsible for this task.

Run-Off-Plan



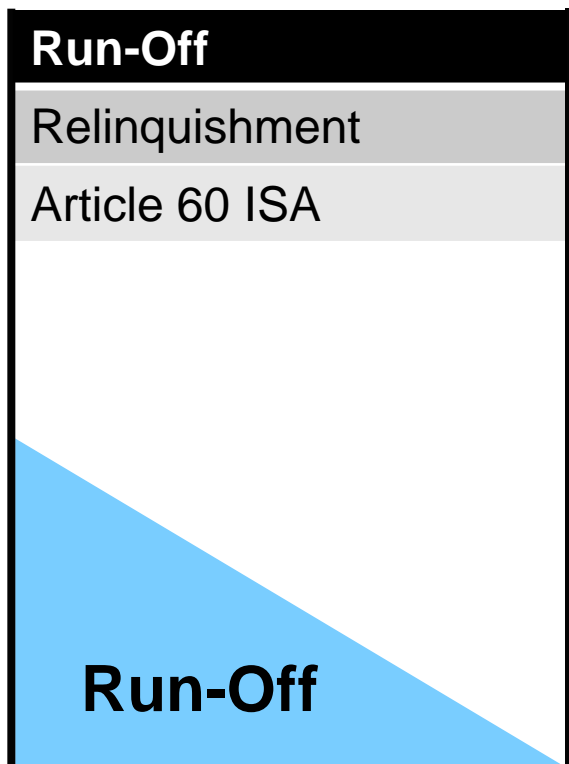
- Should the insurance company fail to comply with the approved run-off plan, article 61 paragraph 2 shall apply by analogy

Overview: Risk related to Run-Off



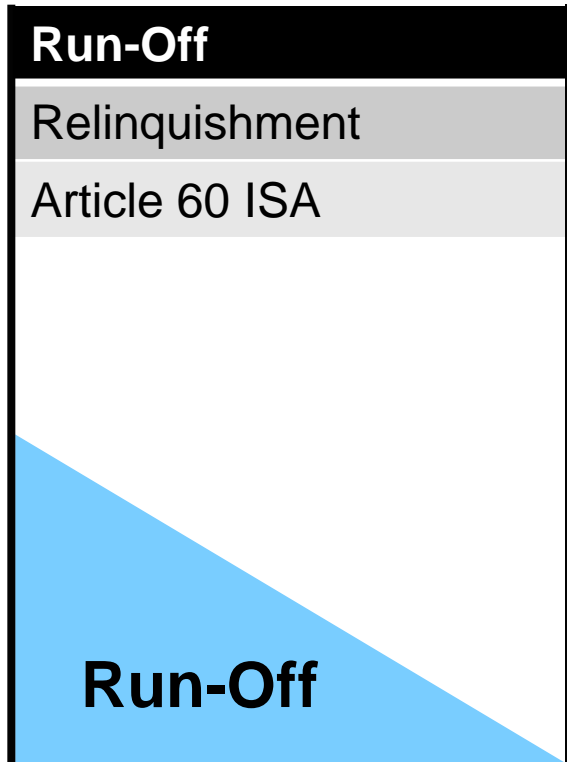
- Decline of insurance premiums
- Increasing relevance of the insurance risk (Non-Life-Insurance)
- Higher liquidity risk
- Increased lapse risk (Life Insurance)
- Less diversification (capital requirement may increase when portfolio shrinks)
- Higher volatility of the insurance technical result
- Steering and monitoring the costs

Cost – estimation FINMA-Circulars



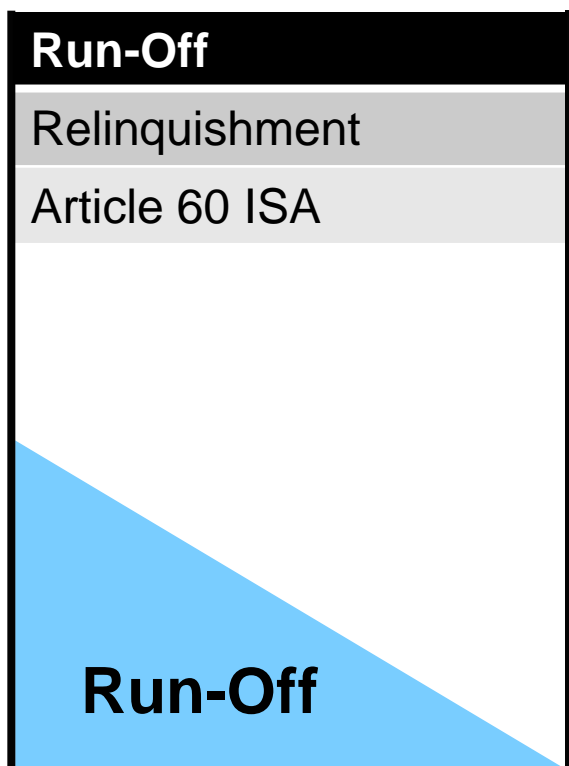
- The formation and release of provisions in non-life insurance are regulated by FINMA Circular 2008/42 "Technical provisions – non-life insurance".
- The formation and release of provisions in life insurance are regulated by FINMA Circular 2008/43 "Technical provisions – life insurance".

Cost – estimation FINMA-Circulars



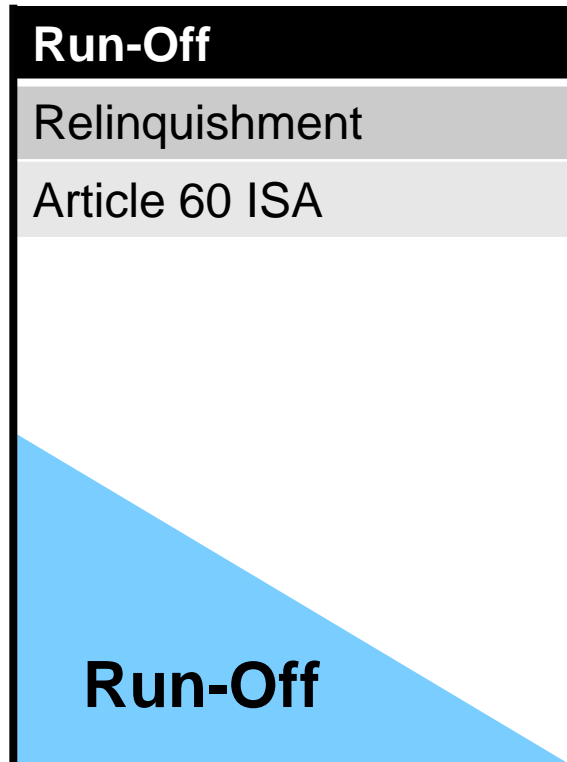
- The formation and release of provisions in supplementary health insurance are regulated by FINMA Circular 2010/3 "Health insurance under ISA". As well as specifying the rules on the formation and release of provisions and permissible financing models, this circular also sets out the method used by FINMA when approving premiums in supplementary health insurance.
- The formation and release of provisions are regulated by FINMA Circular 2011/3 "Provisions in reinsurance".

Cost – estimation principles: Life insurance



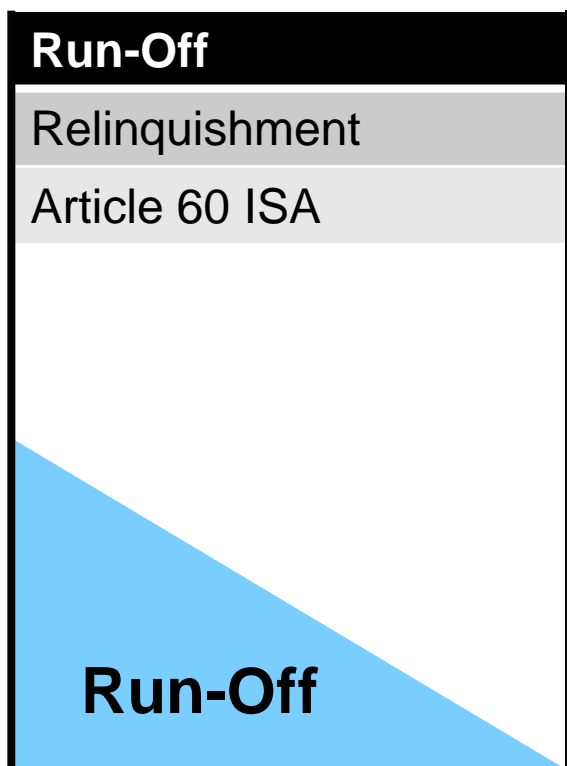
- Estimation of the cash-flows regarding future cost in- and out-flows in a base scenario without inflation, taking into account all insurance contracts until their termination
- Inflation
- Discounting according to a prudent long-term Run-off strategy
- Adequate safety margin based on adverse scenarios

Cost – estimation principles: Non-life insurance



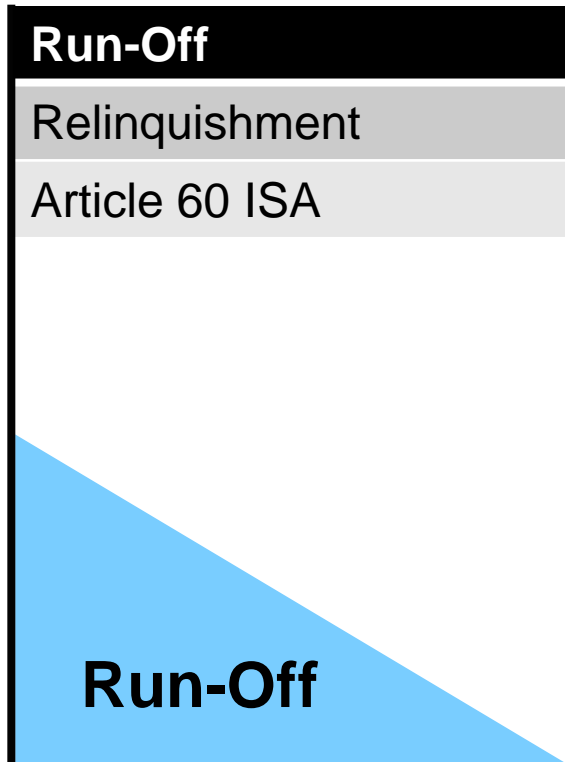
- Loss reserves include Loss adjustment expenses
- Insurance companies, provided they are not exclusively active in reinsurance, are legally obliged to guarantee claims arising from insurance contracts by establishing tied assets.

SST – Less Diversification in a progressed Run-off



- Due to less diversification, SST capital requirements may be significant and must be taken in to account, especially towards the end of the Run-off
- Reinsurance may play an important role in transferring risks to reinsurers
- In general, the reinsurance policy is key in the Run-off

Run-off and payouts, such as dividends

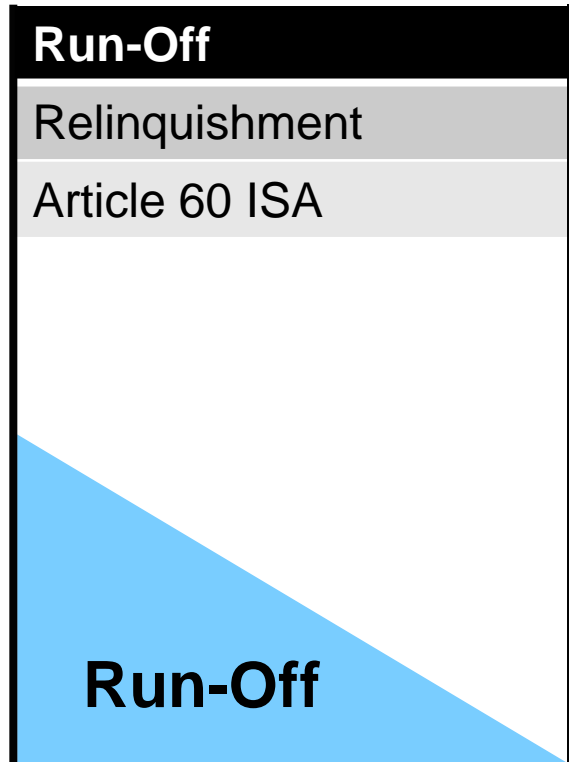


Payouts to the shareholders are only permitted if the claims of all policyholders and creditors are paid or secured.

The protection of the policyholders ranks highest priority.

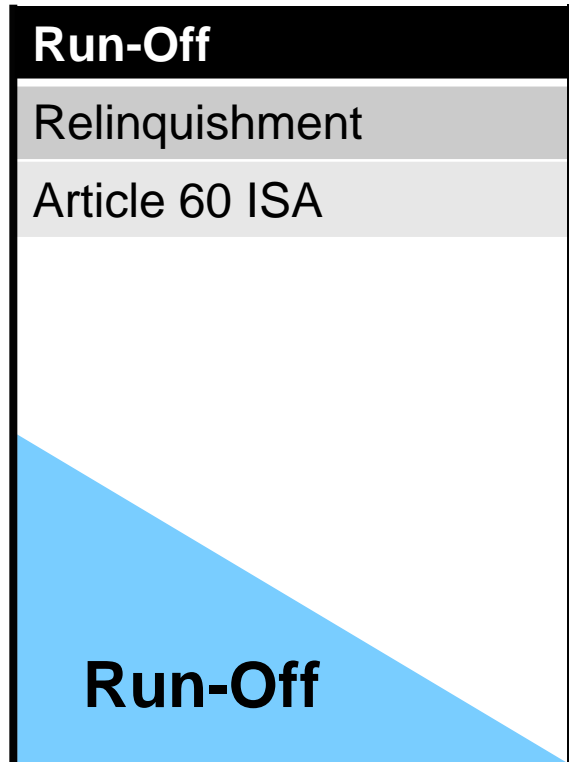
(Urteil des Bundesverwaltungsgerichts B-1299/2006 vom 29. Januar 2008 E. 4.2 i.V.m. E. 6.1)

Run-off and supplementary health insurance



- The development of products / portfolios with entry age rates is very hard to predict.
- In a Run-off situation, the strengthening of technical provisions may become necessary.
- The technical provisions, as a consequence need to be covered by tied assets.

New law regarding the limitation period of claims for bodily injuries



- Limitation period for claims regarding bodily injuries will be doubled by 1st January 2020 (20 years instead of currently 10 years).
- Further changes concerning the limitation period are embedded in the new law.
- Swiss Civil Code: Commencement and Implementing Provisions, Article 49: When a longer prescriptive period than the existing period is introduced, the new period comes into force, if the prescription has not yet elapsed under the old law.

(see Federal Office of Justice, press release of 7 November 2018 and further documents: [LINK](#))

Market Exit / Release from insurance

Market Exit

Release from
Supervision

Article 60 Para. 5 ISA

Article 60 Para 5 ISA

- The insurance company that has complied with its obligations under supervisory law shall be released from supervision and the security deposit shall be returned to it.
- In practice, FINMA requires an opinion by a an auditor and/or an external expert.
- The opinion must confirm that the insurance company has met all its obligations under supervisory law. It must provide for positive assurance (according to the FINMA Circular Auditing 2013/3).

Run-Off and the revision of the Insurance Supervision Act

Run-Off and the revision of the Insurance Supervision Act

- The ongoing partial revision of the **Insurance Supervision Act (ISA)** does not include a special Run-Off-Regulation.
- The Restructuring and Resolution Law, however, aims to maintain insurance coverage, also by granting a proper Run-Off.

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