

Comments Template on EIOPA-BoS-19-259 Consultation Paper on Proposals for Solvency II 2020 Review Harmonisation of National Insurance Guarantee Schemes		Deadline 18 October 2019 23:59 CET
Name of company:	Actuarial Association of Europe (AAE)	
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Proposals for Solvency II 2020 Review

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Reference	Comment	EIOPA
General comments	<p>Solvency II requirements, if applied in a consistent fashion across Europe, will ensure a high standard of prudential supervision and, by protecting consistently against the risk of insurer failure, ensure consistency of policyholder protection across Europe. The quality of supervision under Solvency II is an important factor to be considered in assessing the minimum standard of IGS required as well as lines of business and covers to be included in its scope.</p> <p>We agree that there should be a minimum degree of harmonisation of policyholder protection in the EU in case of insurance failure. We consider that maintaining the status quo is not sufficient as it could lead to material inconsistency of policyholder security from country to country. A European network of national IGSs would provide greater consistency and should be considered. Differences in supervisory practice, national systems and types of insurance business make the establishment of a single EU-wide IGS impractical.</p> <p>Eligibility conditions governing access to IGS should be clearly specified. IGSs should act as a source of resolution funding of failing insurers but should not in themselves act to prevent the insolvency of a distressed undertaking.</p>	
Q1) Do you agree that the legal structure of policyholder protection schemes	The main importance is for the IGSs to meet the objective and there can be several different legal structures which would achieve this. Forcing one specific legal structure would lead to further costs (especially for existing IGSs), which might be unnecessary. Leaving it to the Member States involves the risk of divergence between the systems but compared to the	

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should be left to the discretion of Member States? Please explain your reasoning.	alternative option the proposed approach is still preferable as long as policyholders and insurers are in the same position across jurisdictions.	
Q2) Do you see the need of a parallel development of the topics recovery and resolution framework and IGSs? Please explain your reasoning.	<p>A harmonized regulatory framework for recovery and resolution (RnR) is an important task in itself leading to a further integration of the insurance industry in Europe and could lead to further stability. The IGS should really be the last solution in case that recovery and resolution actions have failed. However, both initiatives should not be linked, with the risk of potentially slowing down the process altogether.</p> <p>With Resolution the IGS should only deal with protecting the customers. It should not be part of the resolution funding. Resolution should not take into account an IGS and try to settle things with a possible Resolution Guarantee Fund. In Resolution creditors should get what they deserve taking into account that policyholders have in many cases precedence over other creditors (or equity) – i.e. an IGS guaranteeing the rights of the policyholders must not mean that creditors and equity get more in Resolution. If after Resolution policyholders suffer a loss, then the IGS should have its role.</p>	
Q3) Do you agree that the primary objective of an IGS can be achieved by means of the two options proposed (i.e. paying compensation and ensuring the continuity of policies)?	We agree that the primary objective of an IGS can be achieved by means of the two options proposed, depending on the nature of the policies: preferably a compensation for short – term policies and a continuation for long – term policies instead. In practice both options are required to meet the needs of policyholders	
Q4) Do you agree that the continuation of the policies should take precedence in case of life and some	<p>We believe ensuring continuity should take precedence for the reasons we outline below. It isn't offered by some existing IGSs however should be an option within a harmonised approach.</p> <p>Termination of contracts would in some cases put the policyholders in a very difficult situation as they might not be able to replace it in similar terms (long-term guarantees, medicals as</p>	

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<p>long-term-life policies? Please explain your reasoning.</p>	<p>part of underwriting etc.). They might also lose the confidence in the industry overall, resulting in not replacing his policy and by that weakening coverage levels. The importance of a continuation will equally depend on the product type but also on the personal situation of the customer, people close to retirement are particularly vulnerable to termination of their policy and should be protected by continuation options.</p>	
<p>Q5) What aspects are relevant to be taken into consideration for the effective implementation of the home-country principle?</p>	<p>Key areas to take account are the policyholder's protection, simplicity, speed and level of coverage (these are relevant in all variations of the geographic principles). The main challenges for the home country approach are with regards to the cross-border business where the practicalities of compensating the customers from other MS or third parties will be difficult (How can the customer be reached? How would they deal with language and cultural differences?). In addition, the potential longer-term solution for continuing the contract through the sale of the portfolio to an insurer could be more difficult if the business is cross-border. There may also be difficulty in that items may not be harmonized between the different insurance markets which could provide a challenge for an IGS covering all business of a cross-border entity.</p> <p>Markets are different also in other ways. For example some (large) markets are fairly diversified while other (smaller) markets are less so, meaning some undertakings govern a substantial market share. In these less diversified markets an IGS might not help the situation but make it worse: the problems of one larger player could create such a burden, especially in life/pension insurance, for the IGS and the whole market that the whole market would collapse (i.e. IGS could create systemic risk for a market).</p>	
<p>Q6) Specifically, should the following options be added to the principles of the home-country approach:</p>	<p>Yes- this would help to address potential operational issues as described in question 5. The possibility of having a "Front - Office " option for the domestic IGS that could identify and compensate the affected policyholders in the domestic countries would represent a step forward for the protection of the policyholders. Indeed policyholders will avoid any communication with the foreign authority meaning no language issue or barrier at a difficult</p>	

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<ul style="list-style-type: none">• the possibility of the IGS of the host-country to function as a "front office" for the identification of the affected policyholders and beneficiaries?• the possibility of the IGS of the host-country to make payments to the affected policyholders and beneficiaries (in their country of residence), and then have a right of recourse against the IGS of the home-country ("back office")?	<p>time for them. It does however create a need for the establishment of formal channels which each "front-office" IGS will use to link in with the "back-office" IGS.</p>	
<p>Q7) Do you have any other comments on the geographical coverage? For instance, are there any cases, especially in statutory lines of business, where the host-country principle should be preferred?</p>	<p>In general the key advantage of the home-country approach appears to be the consistency with regulatory supervision. However, given the harmonization through Solvency II regulation this advantage might be less relevant than the following potential issues:</p> <ul style="list-style-type: none">- Difficulty of reaching customers and supporting customers cross-border- Customers are not treated the same way in a country- Maintaining a cross-border business might operationally be more complex.- A potential longer-term solution of a portfolio sale could be more challenging with	

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	<p>business in specific geographies.</p> <p>Choosing a host-country principle would address the above while at the same time potentially increase the complexity for a given insurer, who has FoE or FoS business. However, the industry and the government of each country can be expected to have vested interest in supporting the IGS because they are directly affected by market implications from a failure of an insurer.</p> <p>Differences in the pension business provided by the insurance company during the decumulation phase might show the significant differences in host/country principles and might be technically difficult not only because of the language barriers but also because of the lack of technical knowledge of the particular conditions of the pension schemes provided by the insurers in the respective Member states.</p>	
<p>Q8) Do you believe that the criteria for selecting the eligible policies (as set out in paragraph 149) capture all relevant policies which should be subject to IGS protection? Please explain your reasoning.</p>	<p>Fully agreed with "policies where the failure of an insurer could lead to considerable financial or social hardship for policyholders and beneficiaries" – this is really the core objective. We are of the opinion that from a client's perspective the relevant lines of business are already covered with the first criterion.</p>	
<p>Q9) Which policies should at least be eligible for IGS protection based on these criteria (as set</p>	<p>Clearly defining the policies covered is one of the key items for which we believe further detailed work is required. In general, any policy with a material claim, which if not covered could provide for a material financial loss to the client (e.g. coverage of a house against fire) or an investment process is involved (e.g. pension, long-term annuity guarantees). Finally, products which medicals as part of the underwriting could present an important loss of</p>	

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out in paragraph 149)?	coverage for the client if he is older and sicker at the time the insurer defaults (e.g. protection business). An example of a non-relevant insurance could be travel insurance for the luggage. Further analysis on the average cover and cost of life should be required, initially at country specific level and then at European level to agree a harmonised level of cover. Individual schemes can cover additional policies however this would be at their discretion.	
Q10) Are there any other considerations to be taken into account to select the range of policies to be covered by an IGS? Please explain your reasoning.	With the transition to the new framework the treatment of legacy cases in relation to existing IGSs needs to be dealt with in order to ensure the continued coverage of the customers. In the same way there should be a process to include new innovative products in the scope of the IGS if applicable and relevant.	
Q11) Which criteria should be used to determine/exclude the eligible claimants?	<p>We agree with the general philosophy of <i>natural persons (with exception for persons directly involved with the failed insurer such as Board's member, directors) and micro and small-sized entities</i> being offered cover through their IGS as they are particularly vulnerable to failure of their insurance policies. People directly responsible for the result of the company should be excluded (e.g. directors) however their family/relatives should be applicable for cover.</p> <p>We do raise a concern in relation to the potential difficulty in defining what a small-sized entity is, for example in the context of a large bloc, a single value of turnover/ salary, may not be appropriate.</p> <p>Intentional causes of the insured event by the insured person or policyholder (insurance frauds).</p>	
Q12) Should coverage be extended to large legal persons	Ultimately the objective is to protect the final customer and offering extended cover will do this. We appreciate that this will have cost implications so it may be something that isn't offered above a certain level.	

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where the ultimate beneficiary are retail customers (such as large corporates offering pensions for customers)?	Considering in addition the structure of such large legal persons and protection offered, a careful analysis is recommendable before including a large legal person in the IGS. The treatment especially of large entities involved can be complex, especially in the cross border IGS services.	
Q13) What should be the relevant criteria to determine a minimum coverage level at EU level for different types of insurances?	Given the difference in implications for the customer there should be different levels for Life and Non-Life, Solvency II compliant and Solvency II non-compliant entities. In case of a maximum required it appears difficult to harmonize this across countries given the different economic conditions and level of invested money in insurance contracts. This may be something that could be agreed on at country level with a harmonised minimum % of a policy's value or % of the regular annuity outpayment to be covered requirement at European level.	
Q14) What should be the relevant criteria to determine the target level for national IGSSs?	The level should depend on the volume and risk of the insurance business and be updated on a regular basis. The target level should take account of the funding methodology and the risk on balance sheets vs other European countries. It could be discussed whether the funding should be based on the home state principle (making it necessary for the home supervisor really to supervise all companies under its supervision – this is today not a reality with undertakings who have no business in the home market and who do only FOS business). Rules of compensation, however, could be according to the host state principle.	
Q15) What should be the relevant criteria to determine the level of the annual contributions per individual insurer into	The individual insurer should participate on a risk-based approach. With harmonized contract valuations and capital requirements under Solvency II there should be a relevant basis readily available. However, that being said, we would challenge as to why the funding method is to be	

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IGSs, including the method of calculating such contributions (risk-based, fixed rate, other)?	prescribed given that the legal structure of the compensation schemes is to be left to member states, and the overarching aim is minimum harmonisation.	
Q16) What should be the relevant criteria to determine the level of the annual contributions for the industry as a whole, including the method of calculating such contributions (risk-based, fixed rate, other)?	The overall contribution should be consistent with the overall risk level in order to gradually fill up to the required value. Hence it should equally be risk based.	
Q17) Are there any other elements that should be included in the disclosure requirements to policyholders? If so, what are those?	Agreed with what's required as per the regulation, but we would add to this that the funding of the guarantee scheme should also be part of the disclosure to policyholders. Disclosure consistent with the requirements of Article 8(3)(e) of the PRIIPs Regulation seems to require sufficient information for policyholders on the schemes and the risks covered in case of a failure of the insurer	
Q18) Are there any other elements that are relevant in the context of cross-border cooperation and coordination	Coordination and cooperation are very important but can be enhanced in a second step once the IGSs have been implemented. Operationally the first priority should be to implement a solution whereby the host country could be the front office for the customer in order to ensure that all customers receive efficient coverage. If the home country option is chosen, it would require the establishment of formal channels between the IGSs of the member states. Hence, this option may require more set-up cost and	

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arrangements in this field, particularly in the context of the home-country approach, please also refer to Q4 and Q5)? If so, what are those?

expense however if the cross- border co-ordination is set up initially, it may reduce future operational issues with the home country approach.
One could in addition question, whether the selection between home and host contains all elements of an IGS. One could also think of the possibility that the funding of an IGS and the rules for compensation can have different approaches.