

Comments Template on EIOPA-CP-19-006 Consultation paper on the Opinion on the 2020 Review of Solvency II		Deadline
		15/01/2020 23:55 CET
<b>Stakeholder name:</b>	Actuarial Association of Europe (AAE)	
	Disclosure of comments: EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.	Public
	<b>Please send the completed template to <a href="mailto:CP-19-006@eiopa.europa.eu">CP-19-006@eiopa.europa.eu</a>, in MSExcel Format, (our IT tool does not allow processing of any other formats).</b>	
Questions to stakeholders	Response	
Q2.1	<p>Considering the importance of this issue for business with long-term financial guarantees we have analysed these options and dealt with EIOPA's issues and the related analysis. The detailed results of this analysis can be found in the comments part of this paper following the references below.</p> <p><b>1 – Impact of LLP changes differ significantly per country and business models</b> EIOPA's annual LTG-Reports have already proved that the importance of extrapolation and LLP differs considerably across the countries and the business models. Our comments will therefore take into account this fact. Based on EIOPA's analysis we try to deepen this analysis and to add our own results especially focussing on the most exposed markets.</p> <p><b>2 – Bond and matching criteria don't indicate the need for a higher LLP for the Euro</b> We acknowledge the fact that swap markets have grown. However, in line with article 77a of the Directive and for hedging purposes, the bond and matching criteria have to be considered when assessing the DLT-character of capital markets and determining the LLP. The last two criteria, which are key for investing and hedging purposes, would not suggest an increase in LLP. Ignoring these would not be compliant with Article 77a. More specifically, the analysis performed by EIOPA present some deficiencies:</p> <ul style="list-style-type: none"> <li>• Interest rate markets are influenced by the ECB. Depending on the extent to which it is felt that these influences dominate broader structural factors that have seen interest rates fall across the globe, conclusions based on market data analysis may need to be tempered (see 2.2.4 para 2.26f).</li> <li>• The DLT assessment of the swap market does neither cover liquidity issues in the necessary depth nor a representative timespan (see para 2.34 &amp; para 2.66)</li> <li>• Bond liquidity has even declined in the last years (see para 2.76) and the matching criterion applied to the bonds market gives no indication for an LLP greater than 20 (see para 2.72)</li> <li>• We have identified some shortcomings of swaps: <ul style="list-style-type: none"> <li>- Using Swaps does not lead to robust forwards beyond a maturity of 20 years( see para 2.24)</li> <li>- Swaps cannot substitute bonds when hedging liabilities (see para 2.27)</li> <li>- Current volume of the swap market is lower than required (see para 2.29)</li> <li>- Local accounting standards can hinder the use of swaps in some jurisdictions ( see para 2.108)</li> </ul> </li> </ul> <p><b>3 – Risk of underestimation of technical provisions does not necessitate a change of the LLP.</b> In either case we do not support the proposal to calculate a shadow SCR using a LLP of 50 years We agree that a balance has to be found between financial stability and realistic market valuation with appropriate risk management actions (Pillar 2). We note that the risk of underestimating technical provisions is however lower than the risk of pro-cyclicality and inappropriate risk management. Given how low interest rates already are, the risk of underestimating TP is low and mitigated by the regular performance of stress tests plus the existence of local safeguard measures in some Member States. In contrast, according to our analysis a LLP of 30 or 50 would in particular cause a greater volatility of technical provisions that cannot be hedged either by bonds or by swaps and therefore cannot lead to better risk management. This increase in pro-cyclicality would create new systemic risks (see 2.127 and para 2.108). We further elaborate in the comment section on the issues listed in the Consultation paper: underestimation of technical provisions (Issue I – see 2.30), risk management incentives (Issue II – see 2.38) and stability of the solvency position and impact on financial stability (Issue III – see 2.48)</p>	
Q2.2	<p>The consultation paper depicts the historical development of currency-VA under MV-Freeze and CF-Freeze in 2.253. In normal cases, the difference is negligible. Differences between the two approaches became only material in periods with extreme interest rate movements.</p> <p>In this case under the MV-Freeze approach, the MV weights remain unchanged even though in reality the MV bonds would decrease in this scenario. Thus, the MV-Freeze approach may lead to relatively higher cash flow projections for lower rated bonds during crises. This should not be problematic (for e.g. CQS 3-4) as rating downgrades observed during periods of stress may indeed lead to a relatively higher allocation to lower rated bonds.</p> <p>Altogether, we would prefer the CF freeze approach. It is more realistic to keep CF constant for monthly calculation dates other than the yearly update of the representative portfolios.</p>	

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<b>Q2.3</b>		<p>We agree that deficiency 1 (over- or undershooting effect of the VA), deficiency 2 (application of VA does not take into account illiquidity characteristics of liabilities) and deficiency 3 (cliff effect of country specific increase) are areas of concern. The over- or undershooting deficiency is the main cause of concern and could partially be solved by the use of undertaking-specific assets reducing the basis risk and artificial volatility; which may arise when reference portfolios are used.</p> <p>We disagree with deficiency 4 on the risk-correction spread calibration. We also note:</p> <ul style="list-style-type: none"> <li>• the lack of granularity and sufficient data plus the use of ECB curve as proxy for government bonds, leading to extra basis risk</li> <li>• the significant impact of the long-term average spread for which additional justification would be welcome.</li> </ul> <p>In addition, the current VA (e.g. country component) may motivate insurers to invest in a way which is not natural for them, and may not be appropriate to the nature of their liabilities, in order to benefit from higher VA.</p>
<b>Q2.4</b>		<p>We agree that some aspect of VA calculation should be reviewed, in particular regarding the impact of spread crisis. However, the new solution should be defined keeping in mind that one of the 2020 revision key objectives is to simplify Solvency II. Options proposed by EIOPA which can lead to multiple additional calculations might be opposed to this aim.</p> <p>In line with the Commission's request EIOPA offers two approaches. Undertaking specific spread or spread developed on the basis of a reference undertaking is the most significant difference. This gives rise to the optionalities discussed with regard to the country-specific component of the VA.</p> <p>In the past, current calculation rules have proven to be not appropriate. They did not take effect during recent spread crisis episodes. Even though this might affect only a smaller number of countries it should be corrected for.</p> <p>It has to be considered how far - without the macro-economic component -, companies are dis-incentivised from investing in their own sovereign bonds and would rather invest in sovereigns in the core most economically stable countries. This could lead to reduced diversification and in turn higher risk.</p> <p>Among the three options proposed to remove identified deficiencies, option 1 seems the most appropriate under the assumption that the undertaking specific VAs of one country will be timely representatives of the VA calculated at country level. A separate macro-economic component would not be required.</p> <p>Options 7 and 8 offered by EIOPA would both allow for a more adequate calculation. They could reduce cliff-effects in activation and thus prevent from procyclical activities. The suitability to support a risk-adequate valuation and the related complexity have to be considered.</p> <p>Currently, option 7 is not considered as one of the options feeding into the two final approaches proposed by EIOPA. Phasing-out is identified as a weakness of this option. This can be seen as a drawback of this option with respect to risk-adequate valuation.</p> <p>Regarding option 8, we note the following:</p> <ul style="list-style-type: none"> <li>• It is not clear whether the macro-economic VA would sufficiently mitigate concerns over cliff effects with respect to the activation criteria. As demonstrated by the EIOPA impact assessment in paragraphs 2.506-2.507, countries with a similar risk profile may have very different numbers of activations. As an illustration, the very low number of observed activations for NL and BE versus DE is striking. We would like to have a better understanding.</li> <li>• The macro-economic VA may not sufficiently take into account differing investment policies amongst insurers within a particular jurisdiction. Within a country, insurers are likely to have different approaches in terms of EU-wide diversification, corporate vs. sovereign allocation or other investment strategies. Per definition, the macro-economic VA cannot take into account such effects in contrast to approach 2.</li> <li>• The underlying rationale for the risk-correction under the macro-economic VA is less clear as it is based on the spread deviation compared to a 5-year average spread less a corridor factor and may thus lack a part of illiquidity premiums. A sufficiently stable risk correction seems to have a better justification as it is linked to considerations of risk (through the risk correction) rather than a moving spread average.</li> <li>• Finally, we note that we miss a justification for the following different proposed proposals: In Para 2.492 average period of 36 months and a corridor of 50bp is used whereas in approach 1 (para 2.524) a 60-month average period and a 20bp corridor is proposed. Only a qualitative assessment is used to motivate this different treatment.</li> </ul>

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	<b>Q2.5</b>	<p>Next to the proposed safeguards under option 1, we note that some additional safeguards already exist:</p> <ul style="list-style-type: none"> <li>• The investment and risk policies of insurers are the main guidance for making investment decisions. Insurers invest with the main goals of asset-liability matching and providing adequate risk-adjusted returns for policyholders. Investment decisions with the sole purpose of gaming the VA are not a part of investment or risk policies and are unlikely to exist in practice.</li> <li>• SCR spread stress and the risk appetite/governance pillar 2 requirements should help to deter wrong investment incentives themselves.</li> </ul> <p>It is however questionable whether potential pillar 3 safeguards should be part of public disclosure. They might introduce “a second version of the truth“. This should be avoided.</p> <p>The safeguard on supervisory powers (2.333) should not be introduced. It is not clear how NSA’s observation that a change in asset allocation is only performed to reach a higher VA should be made reliable. Therefore this safeguard endangers the level playing field when the different NSAs’ interpretations vary.</p>
	<b>Q2.6</b>	<p>Most of the components listed in 2.420 (short-term assets cash flows) are not defining a liquidity buffer a priori, but in the first place they are components of liquidity planning. Liquidity buffers should be part of liquidity risk management which is required by pillar 2, especially when using the VA (i.e. liquidity testing requirements). We do not see the point in including them into the design of the VA explicitly. Implicitly they are considered anyway. We agree that the VA should be modified to recognise the illiquidity premium.</p>
	<b>Q2.7</b>	<p>We appreciate the intention to remedy the deficiencies 1, 2 and 3.</p> <p>Both approaches increase complexity and cost and introduce more divergence between companies and countries reducing comparability through SII reporting.</p> <p>The idea and general design of options 1, 4 and 5 (components of approach 2) are reasonable and effective tools to solve the deficiencies.</p> <p>Neglecting possible practical implementation issues, approach 2 appears to be superior, although we question the relative correction spread approach.</p> <p>The determination of application ratios in option 4 and 5 will require a substantial effort if calculated on a regular basis. In line with proportionality, simplifications (e.g. keeping the application ratios unchanged during the year, or taking results from previous quarters) should be addressed directly in the regulation.</p> <p>For potential further discussions in respect of the options and approaches, we note the following:</p> <ul style="list-style-type: none"> <li>• We suggest that option 2 is not pursued further. We do not see the benefit of a middle bucket approach and it is not at all clear how the VA should be calculated.</li> <li>• We suggest that option 3 is not pursued further. Increasing the market value to a level above the observed market value does not naturally fit to the usual design of cash flow models and is difficult to communicate. Companies are, however, used to deal with an extrapolated yield curve plus VA which significantly deviates from unadjusted swap rates.</li> <li>• Option 8: generally, it could make sense to split the VA between its function as a crisis and a permanent tool. However, we note that the respective calculation of VAperm and VAmacro should ensure that cliff-effects as observed for the currency-specific increase of the current VA are avoided.</li> <li>• When it comes to Options 1 and 6 it is not fully comprehensible that a relative approach is appropriate. The presented validations are not sufficient to justify a change of definition of the risk correction (RC). Even if spread increases can be partly explained by default expectations, it would not be appropriate to set the RC at a fixed percentage of spreads (beyond a stable fundamental spread used under the VA) for the following 4 reasons:             <ul style="list-style-type: none"> <li>o The RC would be calibrated point in time leading to extra fluctuations and reducing the VA counter-cyclicality, which is against the philosophy of a long term measure</li> <li>o There would be a double-counting with a fixed spread shock under SCR spread as it is the case under the current standard formula. A RC definition purely relative to spreads is questionable from a methodological point of view (see comments 2.4.5.2.2 paras 2.425-2.477) but also reduces unduly the effectiveness of volatility mitigation of own funds and might be a source of excessive prudence (see comments 2.4.5.2.2 para 2.440 and 2.441– 2.444).</li> <li>o Finally, the introduction of a relative approach for the VA, but not for the MA, creates a level playing field issue.</li> </ul> </li> </ul>

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<b>Q2.8</b>		<p>The justifications for a GAR below 100% presented in section 2.4.6 are no longer valid when the VA design is changed to approach 1 or 2 or are at least mitigated to a very large extent.</p> <p>We would suggest basing the application on considerations of illiquidity and ALM only, without considering an arbitrary 65% factor. In this case the GAR should be set 100%.</p> <p>Please note our comment on paras 2.545 – 2.554) where we present our view that a foundation on the former 20% recommendation of GAR is not appropriate and therefore the 65% should not be considered as exaggerated.</p> <p>The VA is an assumption like many others used in the BEL valuation. The risk that these assumptions are not realised is covered in the risk margin.</p>	
<b>Q2.9</b>		<p>We consider dynamic volatility adjustment to be consistent with overall SCR definition and sound economic risk management. Indeed, Article 101 of the Solvency II directive defines the SCR as the loss of own funds that would be observed in a 1 in 200 year event.</p> <p>We challenge therefore EIOPA's advice that the dynamic VA should not be implemented in the standard formula. In order to reflect the insurers' business model adequately, we recommend applying the dynamic VA in the Spread Risk module. (see 2.4.7.3)</p> <p>In case the risk charges for most European government bonds remain unchanged the dynamic VA should apply in the Spread Risk module for bonds other than government bonds as well.</p> <p>The burden for companies resulting from the need to segregate their bond portfolio accordingly appears acceptable.</p> <p>This evolution of the Standard Formula is very much consistent with and perhaps depending on the company specific Options 1, 4 and 5 combined under Approach 2.</p>	
<b>Q2.10</b>		<p>We recommend making a clear distinction for calibration purposes between the expected reduced volatility at strategic participation level and the dependence with the holding company.</p> <p>The preferred option would be to assume that there is no significant dependence; NSAs would only be given the legal basis to address the issue if there were significant indicators of high dependence.</p> <p>The question of increased correlation could be considered based on predefined criteria ensuring convergence among Member States (e.g. core business of each undertaking, weight of the participation in the controlling entity, number of Intra Group Transactions, evidence of extra correlation based on observed own funds evolution of both entities, ...).</p> <p>Unless consistently done in an internal model, the measurement of the correlation of a participation and a participant would add high complexity as it would be different for various types of business purposes of the undertaking underlying the participation. This complexity would potentially be increased due to lack of relevant data. In addition to that, the nature of holdings in participations can arguably be compared to the general nature of LTE investments. Therefore the treatment under stress scenarios should stay aligned.</p> <p>EIOPA's proposal in this case is to adopt an assumption within the standard formula that the value of the participation is not correlated with the performance of, or the own funds of, the insurance undertaking. This is a pragmatic approach and one which we view as the best way to proceed. The reasons for this are as follows:</p> <ul style="list-style-type: none"> <li>• Depending on the exact nature of the participation, its risk profile could be quite different to that of the undertaking and there could be limited correlation. Circumstances could also exist where there is strong correlation. The exact level of correlation will depend on the specific activities of the participation, those of the undertaking and the legal structures that exist between them.</li> <li>• The standard formula itself is structured so as to reflect the risk profile of a typical insurer. With regard to the calibration of correlations here, it could be practically challenging to assess what is "typical", as the nature of the correlations will vary (as discussed above).</li> <li>• As firms should consider the assumptions underlying the standard formula in forming views on their own solvency needs, this item is one where, perhaps, firm specific considerations could be adopted within the ORSA process. The ORSA can consider the exact nature of the relationship and business profile of the participation and whether it is correlated with the undertaking. This may then drive an additional capital need for the firm.</li> </ul> <p>The approach proposed by EIOPA avoids ambiguity within the regulations but means firms can give their own specific situations further thought in their ORSA process.</p> <p>We also note that EIOPA have commented more generally in the text here on a requirement for firms to demonstrate that holdings in participations do actually have lower volatility. It may be a challenge for firms to achieve this. For example, where a participating holding was recently acquired, sufficient data may not exist so as to ascertain what the volatility actually is.</p>	

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	<p style="text-align: center;"><b>Q2.11</b></p>	<p>We note that the approach to calibrate the long-term equity correlation is inconsistent with the related long-term equity risk (see Para 2.836 page 231):</p> <ul style="list-style-type: none"> <li>• Overlapping windows are allowed, which is a must for correlation purposes in order to have sufficient data and avoid super sensitive estimates</li> <li>• MSCI World Equity Index is used rather than Total Return Index, which should not significantly affect the correlations (the Total Return Index introduces a slow-moving “drift term” coming from the dividend returns)</li> </ul> <p>We also question the proposed approach to assess a correlation between the Long-Term Equity SCR and “short-term” risks, where correlations are calculated between the 10-year return spanning 1/1/2000 up to 1/1/2010 and the 1-year returns spanning 1/1/2000 – 1/1/2001, and so on... (essentially, matching the start date of the overlapping windows.). There is an overall issue with estimating the correlation this way as they are correlated by construction: if from one day to the next the index drops significantly, this will have an impact on both the 1Yr return and the 10Yr return.</p> <p>One could consider instead a “volatility-based” correlation by assessing the correlation between overlapping windows of 10Yr standard deviation versus overlapping windows of 1Yr standard deviations (each based on daily returns). The measure of “Standard Deviation” is a more appropriate quantity to correlate SCRs rather than a correlation in returns.</p> <p>In the absence of appropriate approach and data, it is impossible to conclude at this stage and the status quo should be the preferred approach.</p> <p>We currently do not have sufficient statistical data for a quantitative answer. Nonetheless, we would like to highlight the following qualitative aspects.</p> <p>We would recommend not to consider Option 3. The analysis provided in the CP shows an increasing correlation between LTE and One-Year Equity risk in case of a shocked market, as it was the case during the financial crisis (correlation of 0.54). As the outcome of the equity risk module is the SCR with respect to a 1 in 200 year event, this correlation might be higher than in the demonstrated case. Therefore, LTE risk and equity risk should tend to behave similarly against interest rate, spread and FX risk in case of extreme markets. This in our view would not be reflected within option 3.</p> <p>For option 2 it would not make a difference in the SCR, if the LTE is of type 1 or type 2, as 22% would be added to the other equity risk in both cases.</p> <p>For option 1 it would make a difference how the overall amount of LTE investments subdivides into type 1 or type 2. The SCR charge would be different for different quotas of type 1 and type 2 LTE.</p> <p>The basic question in our view therefore is whether the type of a LTE investment should make a difference in the aggregated SCR calculation. For example, consider a 100% type 1 equity portfolio which is supplemented by a LTE investment. If the latter were of type 2, the aggregated equity SCR would be lower than if it would be of type 1, resulting in an incentive to invest into type 2 LTE.</p> <p>We therefore consider that option 1 might result in misleading incentives, and option 2 should be favored.</p> <p>Furthermore, we noticed that the following issues were discussed in the Consultation Paper, but were not addressed as questions to stakeholders:</p> <ul style="list-style-type: none"> <li>• Lower capital charge for investments with a long time holding period (2.9.4.2);</li> <li>• Measurement of volatility for strategic equity investments and minimum control threshold (2.9.6.1)</li> <li>• Requirement for LTE portfolios to be diversified (2.9.25);</li> <li>• Exclusion of controlled-intra group investments from LTE (2.9.29).</li> </ul> <p>In our opinion, the feedback of stakeholders should also be sought on these issues.</p>

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<p>No.</p> <ul style="list-style-type: none"> <li>- Insurers, especially life insurers, are major investors on the capital markets. To ensure that obligations towards policyholders can be fulfilled in the future, they are interested especially in the (very) long term perspective investment and stable interest rate income. Asset portfolios are designed to be appropriate to the nature of the covered liabilities.</li> <li>- Illiquidity of liabilities is a key feature of the life insurance business.</li> <li>- The introduction of the new long-term equity risk submodule (Art 171a DA) intended to support one of the main Solvency II goals (policyholder protection) by facilitating long term investments by the insurance sector through advantaged capital treatment.</li> </ul> <p>The current restrictive criteria for inclusion as long-term equity could prevent the application of Art 171a to main parts of the life insurance market. We consider that the criteria may need to be less restrictive to ensure that the change can make the targeted difference.</p> <p>The illiquidity of the liabilities is not reflected in an appropriate manner in the equity risk sub-module. The equity shocks type 1 and type 2 are reflecting the risk of a 1 year period, which is in line with the one-year horizon required in Solvency II</p> <p>To take into account the illiquidity of liabilities, certain related equity investments could be considered differently, reflecting the longer investment horizon associated with them.</p> <p>The risk could appropriately be measured over a longer period than 12 months taking into account recovery periods after drawdowns in case the insurer is able and willing to hold the equities for a sufficient long time.</p> <p>Article 171 (a) requires that the lower volatility of an equity investment has to be shown for 12 months. This requirement does not reflect the illiquidity of liabilities</p> <p>We assume that any assets, in order to be categorized as long term equities, should be well diversified and from developed markets.</p> <p>The illiquidity of the liabilities offers the possibility to retain these assets in times of stress. An appropriate risk management is indispensable. A measure of risk over a longer period may be appropriate.</p> <p>The illiquidity of associated liabilities should be evidenced.</p> <p>A more precise definition of the applicable rules concerning the liquidity test as well as operational practices in accordance with local regulations is needed, in particular for the profit sharing mechanism.</p>		

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<b>Q3.1</b>		<p>We believe that homogeneous risk groups used for the calculation of the technical provisions may well include profit-making and loss-making policies. The proposed calculation would not only be burdensome and further stress the calculation processes within very tight deadlines, but could also lead to potentially inconsistent results.</p> <p>Article 34 (3) of the Delegated Regulation requires homogeneous risk groups to appropriately reflect the risk of the individual policies. To us this means that policies in the same homogeneous risk group are grouped on the basis of criteria like similar exposures especially to market and underwriting risks. Article 35 of the Delegated Regulation provides guidance for life insurance obligations. Neither article 34 nor 35 of the Delegated Regulation address effects of future premiums on the technical provisions explicitly. If profitability, in the sense of a positive or negative EPIFP, is relevant for the best estimate of technical provisions or the capital requirements, it will already be considered in the HRG segmentation. Therefore there should be no different segmentation for EPIFP.</p> <p>For further details we refer to our detailed elaboration in para 3.60-3.63.</p> <p>This introduction of further granularity may or may not provide additional relevant information. For pricing it is natural that profitability differs by subgroups and then there might be under some conditions be loss-making contracts. However, these will still be part of the same homogeneous risk group. Also, within the text, EIOPA have not clarified as to when profitability is assessed. Contracts may vary in profitability over their lifetime – as an example, a term assurance contract could be profitable at early stages, where, over the contract lifetime, expected premium income exceeds claims outgo. However, a similar contract could be loss-making later in its lifecycle, as the contract reaches a point where expected future claims exceed premium income. This can make a significant difference.</p> <p>We also note that this proposal may have arisen as a result of IFRS 17, where companies will be asked to classify contracts into profitability categories based on profitability at inception. Although IFRS 17 applies to many contracts also covered by Solvency II, there are many companies whose products are not within the scope of IFRS 17, and non-life companies which avail of the PAA approach, making this requirement burdensome for such companies. With respect to the IFRS 17 reference made in 3.1.3.1 it is also worth clarifying that a definition of homogeneous risk groups allowing for the sign of EPIFP is not consistent or even similar to the onerous contract definition in IFRS 17.</p>
<b>Q3.2</b>		<p>The rationale for a question on the introduction of barriers to entry is unclear to us as the change would be more likely to affect companies that are closed to new business rather than new entrants. These would still be able to assume new business volumes materialising in line with their business plans.</p> <p>According to Article 7 of the DR the valuation must be based on a going concern assumption.</p> <p>According to this requirement, companies already consider new business. They should not allow for new business where none is expected to be written. Therefore, this is more a question of process and ensuring any changes are based on evidence rather than anything else. Therefore the proposed definition may not be necessary.</p>
<b>Q3.3</b>		missing
<b>Q3.4</b>		<p>We concur with EIOPA's view on the assumptions underlying the reference undertaking where the original undertaking applies the MA or VA and, taking into account the pros and cons indicated by EIOPA, the advice to maintain the current approach for the MA and VA in the RM calculation.</p> <p>The Solvency II Delegated Regulation states in Article 38 that, “the assets are selected in such a way that they minimise the Solvency Capital Requirement for market risk that the reference undertaking is exposed to”.</p> <p>A final decision in relation to this aspect (“minimise”) should take into account the current discussion concerning the VA. The introduction of a permanent VA under consideration of the specificities of an undertaking might necessitate a new consideration of the adequate discount curve and the effect relating to a de-risking. The impact of the use of the permanent VA on the spread risk has to be considered.</p>

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<b>Q3.5</b>		<p>In addition to our answer below we refer to the AAE Commentary paper 'A Review of the Design of the Solvency II Risk Margin', published in December 2019:  <a href="https://actuary.eu/aae-publishes-commentary-paper-review-of-the-design-of-the-solvency-ii-risk-margin/">(https://actuary.eu/aae-publishes-commentary-paper-review-of-the-design-of-the-solvency-ii-risk-margin/)</a>            This comprehensive paper aims at reviewing the current design of the risk margin and making suggestions for possible modifications.            According to the Summary:            In this paper we review the current design of the Solvency II risk margin. The current aim of the risk margin is to provide a quantification of the hypothetical cost a third party would expect to charge (in addition to the Solvency II 'best estimate liability') to take on a book of insurance liabilities. We make suggestions that respect this principle but address some perceived weaknesses in the existing design, including proposing a cost of capital that attenuates, i.e. declines through time from the valuation date, or equivalently including in some elements of the risk margin calculation a discount rate that is above the risk-free rate, if risk dependencies over time are material. We also explore assumptions that would be most appropriate for the reference undertaking assumed to be taking on the relevant liabilities. The modifications we propose should help to make the end calculation more robust and stable for individual firms, whilst retaining an appropriate level of responsiveness to capital needs and an underlying structure that is actuarially sound. Issues explored in the paper include: (a) the overall impact and sensitivity of the risk margin to changes in economic conditions, (b) the interaction between the Solvency II risk margin and the margin over current estimate in the IAIS global Insurance Capital Standard or the risk adjustment in IFRS 17, (c) the risks to include in the risk margin calculation, (d) the discount rate and cost of capital rate to use in the risk margin calculation, (e) multi-year dependencies and (f) the treatment of tax."            We reiterate the following comments which we have made previously on the calculation of the risk margin (RM):            EIOPA points out that in real transfers of liabilities, there are generally commercial terms to the transfer which are not relevant in Solvency II. Examples mentioned are that an undertaking may purchase a book of business at a discount to allow for future expected new business, an undertaking may place a value on the brand of the business they are acquiring, which is not allowed for in Solvency II and there may be tax effects or diversification benefits to the transaction which do not exist when the books of business are looked at in isolation. As EIOPA indicates, the list could go on, with each transaction likely to have specificities that may need to be removed or added to the transfer value to get a fair comparison. Nevertheless, the new analysis provided by EIOPA, is limited and ends on a research level where the outcome underpins current regulation. Furthermore, the data and available transactions are limited, influenced by exceptional economic circumstances and focused on lines of businesses and therefore sensitive for misjudgements.            Furthermore, the design of the RM and the transfer value of the liabilities should be further analysed to address and solve limitations.            We agree that the RM is very sensitive to changes in risk-free rates. This is due to the fact that the Cash flow items (CoC-rate * SCR(n)) are themselves sensitive to the interest rate in the relative future of n. Also EIOPA's analysis shows evidence to conclude that the RM is sensitive to changes in risk-free rates. AAE is currently performing an analysis to assess whether a different investment can generate the abovementioned cash flow items with a vastly reduced residual interest rate risk.            The paper mentioned above also shows that more flexibility in CoC-rate is needed. At least the tax environment of the reference undertaking calls for differences in the rate. To this end, we suggest a change of Article 77 (5) of the 2009 Directive. This would allow for flexibility in the Delegated Acts. <del>Just a note, under IFRS 17 no specific rate is being prescribed for the risk adjustment calculation, and even if the general objective of IFRS 17 and</del></p>
<b>Q3.6</b>		<p>Homogeneous risk groups for calculating technical provisions and capital requirements are identified according to the homogeneity of the risk characteristics of the relevant contracts.</p> <p>Art. 34 and 35 of the Delegated Acts are sufficient to ensure a level playing field. In particular the aspects mentioned in A.152 are already taken into account. It may however be the case that there are specific circumstances which may introduce an additional dimension.</p> <p>A common example relating to undertakings using transitional measures may be one tariff that was open for new business before and after 2016. This tariff may lead to the same homogeneous risk group on the basis of A.151 and A.152. For the purpose of allocating the transitional measures it is however necessary to derive different homogeneous risk groups</p>
<b>Q3.7</b>		<p>No. Homogeneous risk groups are considered for policies in force on the basis of type of product, level of guarantees, policyholder options and, if relevant, the profit sharing mechanism. The structure of the best-estimate assumptions used to calculate the technical provisions is usually less granular than the definition of homogeneous risk groups. For the grouping of policies to derive model points for stochastic modelling there are further aspects to be considered (e.g. age, remaining duration, level of technical interest rate or asset portfolio structure within ALM). Hence the granularity of model points is usually higher than that of the homogeneous risk groups</p>
<b>Q3.8</b>		<p>In general, the same homogeneous risk groups are used for the calculation of the technical provisions and the corresponding reporting, i.a. EPIFP.</p>

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	<b>Q3.9</b>	<p>Whether a 0% minimum guaranteed interest rate or a partial/full capital guarantee have a discernible effect on the economics of the contract depends on the guarantee characteristics of the contract.</p> <p>In any case, it is clear that in the current low interest environment a 0% minimum guarantee or partial/full capital guarantee does have an effect on the value of the guarantee.</p> <p>A 0% minimum guaranteed interest rate can even have a material effect especially if policyholder participation on profits and losses is not symmetric (i.e. for with-profit policies or unit linked policies with guarantees, where in case of losses these are fully compensated by undertakings capital, while emerging profits have to be shared with policyholder to a great extent. negative investment return company covers the cash-flows paid to policyholders or market value reserves by its capital, while in positive investment return it is paid from underlying asset).</p> <p>Even if the 0% guarantee may have little value in the best estimate there may still be effects in the risk neutral market consistent valuation of the technical provisions or the interest rate down shock of the standard formula.</p>
	<b>Q4.1</b>	<p>We disagree with the options to treat EPIFP as Tier 2 or Tier 3 own funds. EPIFP are inherent in the Solvency II framework and the economic rationale behind the valuation of liabilities, i.e. valuing liabilities as if a third party were to undertake the obligations at fair value. Under this fundamental valuation principle, expected future profits embedded in future premium can be a key component of the valuation, and the consideration required by the third party in order to acquire the obligations would certainly allow for this. The importance of this item depends on the LoBs considered and may be the highest for non-life business.</p> <p>We note that the EPIFP values are currently being stressed within the SCR calculations, and therefore there is already an allowance for the risk of misstatement in the EPIFP. Risks relating to the actual availability of funds in a stress situation are best managed holistically, and these risks are already considered by many insurers within their ORSA. We note that EIOPA has also called for a comprehensive framework for Recovery and Resolution planning.</p> <p>Furthermore, for non-life companies, the additional Lapse Risk and Premium Risk SCR charges associated with the EPIFP may also give rise to a significant increase in the risk margin. There may also be a significant deferred tax liability on the Solvency II balance sheet as a result of this for the impact of tax). To the extent that there are any future proposals to limit the allocation of EPIFP to Tier 1 available capital, this should have regard to the marginal increases in risk margin and notional deferred tax liabilities generated by the EPIFP cashflows. Otherwise, this could create a situation whereby some companies cannot allow for the full EPIFP in their Own Funds, but the full risk margin and tax liabilities associated with the total unrestricted EPIFP are included.</p> <p>In addition, in the event of any such restrictions being proposed in the future, the extent to which loss-making contracts in respect of future premiums can be offset against EPIFP should be considered.</p> <p>If EIOPA has concerns relating to the best estimate value of the EPIFP then this could be managed similarly to the counterparty default adjustment on reinsurance assets.</p> <p>An allowance could be made for uncertainty within the best estimate value which would also reduce the SCRs, and could be an alternative option that can be applied proportionately for insurers with higher and lower EPIFP exposures.</p>
	<b>Q5.1</b>	no
	<b>Q5.2</b>	n/a
	<b>Q5.3</b>	<p>No. However, we suggest that EIOPA consider the calibrations employed within internal models and the calibrations used in those cases, as this may provide support on this. Whilst many internal models make use of copulas, some may use correlation matrices and as a result may provide EIOPA with additional sources of information to consider.</p> <p>In any case, sufficient empirical evidence should be available before considering changes of the correlations.</p>

<p align="center"><b>Comments Template on EIOPA-CP-19-006 Consultation paper on the Opinion on the 2020 Review of Solvency II</b></p>		<p align="center"><b>Deadline</b> <b>15/01/2020 23:55 CET</b></p>
<p align="center"><b>Q5.4</b></p>		<p>A reduction for non-proportional reinsurance to the standard deviation for premium risk is currently permitted for the Motor vehicle liability, Fire and other damage to property and General liability LOBs. We have the following comments/ queries in this regard:</p> <ul style="list-style-type: none"> <li>• In the absence of a more substantial update to the allowance for non-proportional reinsurance in the premium &amp; reserve risk sub-module, EIOPA could consider the feasibility of extending a non-proportional adjustment factor to all LOBs.</li> <li>• Consideration could also be given to an adjustment factor for non-proportional reinsurance for reserve risk.</li> <li>• In relation to the 80% factor itself, we would query if its calibration would benefit from a refresh or update, part of which should consider the applicability to other LOBs.</li> <li>• Currently, the 80% adjustment factor must be applied by all undertakings regardless of their reinsurance structure. This may lead to an underestimation of premium and reserve risk for some entities, and an overestimation for others. While we appreciate that this is a standard model, we would still query the appropriateness of the adjustment factor being used for undertakings with no reinsurance in place at all.</li> </ul> <p>In general, we do not believe that the potential additional complexity involved in more accurately reflecting non-proportional reinsurance within the premium &amp; reserve risk sub-module should be a barrier to implementing such an approach. We expect that companies who benefit in practice from non-proportional reinsurance would accept the trade-off of having a slightly more complex calculation.</p> <p>With respect to the issue regarding double-counting, companies already have to consider this within the catastrophe risk sub-module to ensure there is no double-counting of risk mitigation across different perils. We suggest that a similar concept could be applied at a higher level across premium &amp; reserve and catastrophe risk.</p>
<p align="center"><b>Q5.5</b></p>		<p>The reinsurance market is continuously developing. For that reason we support periodic reconsideration of adverse development covers and other finite reinsurance solutions in the future.</p> <p>EIOPA should continue to investigate the feasibility of allowing for ADCs in the SCR standard formula. The economic substance of an adverse development cover is to reduce or eliminate reserve risk and the benefit of this should, therefore, be reflected in the standard formula model. Not allowing for ADCs in the SCR could act as a disincentive to use this option to effectively mitigate the overall reserving risk.</p> <p>In our view, the introduction of a scenario-based element to the premium and reserve risk sub-module, or at least the reserve risk component, to reflect maximum net exposures should not be dismissed on the grounds of complexity. Companies already have processes in place to handle complex calculations in the catastrophe risk module.</p> <p>We suggest that EIOPA set a plan to seek further input on this issue from stakeholders</p>
<p align="center"><b>Q5.6</b></p>		<p>Please refer to Q5.5</p>
<p align="center"><b>Q5.7</b></p>		<p>A consistent treatment of contingent instruments between the SF and IM is preferable. We agree that contingent capital and convertible bonds are not a risk-transfer mechanism.</p>

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<b>Q8.1</b>		<p>In the context of simplifications in the calculation of the technical provisions, we agree in principle with the advice set out in the consultation paper which suggests proportionality is embedded in the calculation methods themselves.</p> <p>Nevertheless, some changes to the provisions on the calculation of TPs could be considered to allow for a simplified and more proportional calculation, perhaps for products/HRGs/LoBs that are not material in the context of the overall BEL or for parts of the BEL that are below a certain amount in absolute terms. One such approach could be the use of undiscounted reserves in lieu of a discounted set of cash flows.</p> <p>We also have a proposal for a possible amendment to Method 2 from the hierarchy of methods for calculating the risk margin (Guideline 62 from the Guidelines on the valuation of technical provisions). One area that causes problems for a number of entities is where there are negative cashflows within the technical provisions (e.g. future premium cashflows), and this can give rise to unusual results when using methods that run-off the future SCRs in line with the run-off of the best estimate technical provisions. We would propose that in certain cases an additional simplification could be explicitly permitted to allow the SCR in each future year to be run-off of in line with the best estimate claims cashflows only.</p>	
<b>Q8.2</b>		<p>We prefer option 3.</p> <ul style="list-style-type: none"> <li>• In our opinion, Option 2 (simplified calculations for immaterial risks), e.g. grouping exposures, could be viewed as a simpler approach but it has some disadvantages versus Option 3.</li> <li>• Option 2 loses certain benefits (for example, diversification and risk mitigation) which are retained in Option 3. Option 2 has the clear drawback that it will always yield an overly prudent SCR (no diversification within sub-SCRs).</li> <li>• Calculations under option 2 seem to be only slightly less complex compared to the full calculations of the SCR, since aggregation methods still require a calculation tool which – for instance – needs to calculate the reinsurance effects given the gross SCR.</li> </ul> <p>Option 3 could be considered a little more complex; in particular given the need to perform the initial assessment which might be difficult for smaller companies with resource constraints. Option 3 proposes a different model for which a calibration of some basic parameters is necessary. However, considering that the basic parameters need only be calibrated once every 2-3 years, it might be more proportional. All in all Option 3 seems to lead to a fairer outcome and might result in less workload, so we endorse it.</p> <p>Within Option 3, we believe that Method 2 is the best one as the SCR is based on relevant risk drivers/volumes whereas the BSCR in Method 1 could be affected by issues not pertinent to the calculation of the SCR (sub)module in question.</p> <p>For small companies, for which applying a full look-through approach for collective investment undertakings may be burdensome and provide minimal additional accuracy, we also propose to include the option of applying the fund credit rating.</p>	
<b>Q9.1</b>		<p>We agree in principle that clarity of the terms defining the scope of groups would be welcomed.</p> <p>However in terms of supervisory groups being empowered to consider de facto groups and supervise them as such, a clear framework should be drawn out to that end to ensure appropriate group scope is used. Such a framework should be consulted in advance with industry stakeholders.</p>	
<b>Q9.2</b>		<p>We agree with the proposal to clarify the terms used in the definition of Insurance Holding companies. However, in terms of the exact criteria used these should be further investigated to ensure appropriate scope, and that definition is not widened without good reason. While we agree in principle with the need for supervisory flexibility, such criteria should be set out in a clear framework to ensure foreseeability and consistency of approach.</p>	
<b>Q9.3</b>		<p>Different practices used: We agree with the proposal to introduce an overall principle on the exclusion from scope of group supervision.</p> <p>Further clarity on negligible interest: We agree with the proposal to introduce criteria to be considered in looking at “negligible interest” in the context of group supervision.</p>	
<b>Q9.4</b>		<p>Thresholds for IGTs and RCs: We agree with the principle of introducing further clarity in the application of thresholds for IGTs and RCs. However in terms of additional criteria, these should be set such as to ensure appropriate scope, and that application is not widened without good reason. Specifically any qualitative criteria should be part of a clear framework to ensure foreseeability and consistency of approach.</p>	

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Q9.5	The principles-based assessment should not preclude the ability of the group to recalibrate the capital allocation within the group after a loss emerges in any group undertaking, and own funds are transferred to that undertaking. The “ongoing compliance with solo tiering limits” should be addressed in the Group ORSA and not in the pillar 1 quantitative requirements.	
Q9.6	A tool to separately extract the amount of EPIFP and make corresponding own funds available within 9 months could potentially be an agreement, concluded with a group-external counterparty, which capitalizes the EPIFP at issue in exchange for cession of corresponding future profits. The initial profit of such an agreement may be transferred in cash or cash equivalents to the suffering group undertaking or the ultimate parent. Such agreements are common practice, so-called VIF monetization agreements (where VIF includes EPIFP), which further supports considering EPIFP as a tangible, liquid, component of capital that under the Solvency II framework should clearly qualify as Tier 1..	
Q9.7	Minority interest: - For consistency reasons, the assessment of minority interest should be based on the excess of eligible own funds over the company’s contribution to the group SCR (i.e. on Solvency II basis). - External subordinated debt should be excluded from minority interest since it represents the group’s liability to a third counterparty and as such does not relate to the minority shareholder (potentially different from the third counterparty). Own funds should be adjusted for intra-group transactions since these also do not relate to the minority shareholder.	
Q11.1	We note EIOPA’s aims here, but would caution against a capital surcharge as a means of managing systemic risk. Regulators have a broader perspective across entities than the entities themselves and would be best placed to manage systemic risk. Systemic risk is best managed by having appropriate frameworks in place to address it, not by holding additional capital. A surcharge will reduce the level of excess capital over and above the capital requirements. But a change in behaviours that would reduce risks arising from systemic issues is necessary. Focus should be on pan-European regulatory interaction and enhanced supervision of firms that pose, or are at particular risk from, systemic issues.  Decisions should consider possible procyclical effects that might amplify the identified systemic risk.  Some thoughts relating to possible principles: a) NSAs should intervene only when and where there is a risk to financial stability. b) Information on macroprudential risk related to the economic and financial environment and the way insurance undertakings might be aggravating this risk should be publicly disclosed. c) The source of systemic risk should be clearly identified and disclosed by NSAs.	
Q11.2	n/a	
Q11.3	A significant issue with the proposed approach here is that it considers amending the ORSA. The ORSA is supposed to be a bespoke report, structured by the company to address its specific needs. EIOPA and many other regulatory bodies have cautioned against giving excessive guidance as a result. It may be possible to prescribe a limited sub section of the ORSA to generate an amount of information in standard form but we would advise against seeking to convert ORSA reports into standardised documents.	
Q11.4	In our opinion, only ‘entity-based’ systemic sources can be addressed by drafting SRMPs. Hence, the factors to be considered to determine the scope of undertakings subject to SRMPs should be those used in identifying either G-SIIs or D-SIIs, i.e., SRMPs should only be required to G-SIIs or D-SIIs. If the D-SII belongs to a financial conglomerate also deemed systemic, the SRMP will only be required if the undertaking is either the conglomerate’s parent company or, if not, the conglomerate’s parent company has not been requested to draft a SRMP by its supervisory authority.	
Q11.5	n/a	
Q11.6	n/a	

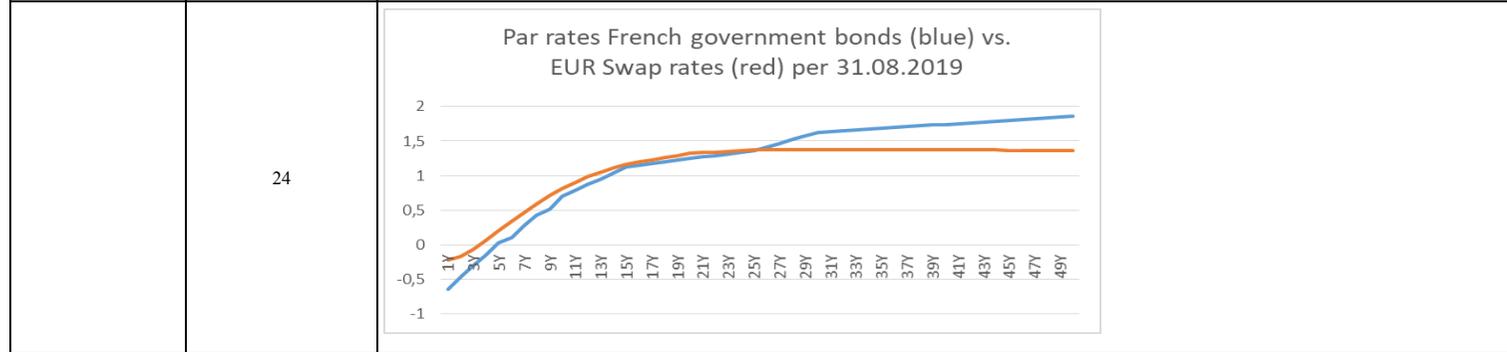
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<b>Q12.1</b>		<p>The relevant factors stated in Table 12.4 are a good starting point.</p> <p>The very significant market coverage shall be defined in a two-staged approach. All G-SIIs, IAIGs and entities which are required to report under the “Guidelines on reporting for financial stability purposes” shall have pre-emptive recovery plans. These entities have been identified by taking into account factors which are listed in table 12.4 of EIOPA’s opinion.</p> <p>In cases involving cross border subsidiaries, it might be reasonable to require the lead supervisor in a college of supervisors to dictate the recovery and resolution plan for the entire group, and to require other supervisors to follow the approach recommended by the lead supervisor when dealing with subsidiaries in their jurisdiction.</p> <p>We also suggest consideration is given to expanding the size assessment to explicitly take into account the nature of the business (because some products can have relatively high assets/GWP/TP compared to their risks for example single premium unit-linked business without guarantees).</p>	
<b>Q12.2</b>		<p>As for 12.1.</p> <p>We agree with 12.125 that the scope for resolution planning shall be smaller than that for pre-emptive recovery planning. This is already in line with current market practices in some EU member states. Thus, we propose the significant market coverage to be defined as comprising all G-SIIs and IAIGs.</p> <p>Again, in cases involving cross border subsidiaries, it might be reasonable to require the lead supervisor in a college of supervisors to dictate the recovery and resolution plan for the entire group, and to require other supervisors to follow the approach recommended by the lead supervisor when dealing with subsidiaries in their jurisdiction.</p>	
<b>Q12.3</b>		<p>The relevant factors stated in paragraph 12.177 are a good starting point. The relevant factors stated in paragraph 12.177 are a good starting point.</p> <p>Special attention has to be drawn to the trigger with respect to the Solvency II-ratio. We agree that a breach of the SCR-ratio is an appropriate trigger for entry into recovery. In that context, the current legislation already allows for early intervention where there is a risk that a company will breach the SCR/MCR in the following three months. We do not advocate earlier intervention than that.</p> <p>In addition, consideration could be given to including non-Pillar 1 metrics such as liquidity and departure of key people.</p>	
<b>Q12.4</b>		<p>Special attention has to be drawn to the trigger with respect to the Solvency II-ratio. We agree that a breach of the SCR-ratio is an appropriate trigger for entry into recovery. In that context, the current legislation already allows for early intervention where there is a risk that a company will breach the SCR/MCR in the following three months. We do not advocate earlier intervention than that.</p>	
<b>Comment</b>			
<b>General comments</b>		<p>Taking into account the exposure to and the relevance of some issues for particular business models, we aim in our comments at striking a balance between ranges of differing views from various countries.</p> <p>The difference in the business models across different countries leads to a difference in the relative importance of LTG measures. This is also clear from EIOPA’s annual LTG-Reports. While the Volatility Adjustment is quite broadly used, the number of users of Transitional Measures and the Matching Adjustment is smaller. We elaborate further on this theme below.</p> <p>We have performed an in-depth analysis of all issues relating to extrapolation and market consistent valuation of liabilities. The DLT assessment of markets is a core part of our investigation. As a result, we do not agree with a change of the current LLP for the Euro. The analysis provided by EIOPA is not compliant with Commission’s request. With regard to the swap-market, it covers only two years and does not include periods of market stress and increased interest rates. Article 77a of the Solvency II Directive requires accounting for the bond market as well. The market for bonds does not comply with the deep, liquid and transparent requirement. Demands relating to bond and matching criteria are not met. We do not agree that a change in the current LLP is justified by EIOPA’s analysis.</p> <p><b>Long-term expectation:</b></p> <p>The required market-consistent valuation necessitates an extrapolation of the risk-free interest rate curve after the LLP. The introduction of an ultimate forward rate (UFR) is designed to enable this extrapolation. According to the Solvency II Directive the UFR should reflect a long-term expectation. This rate is determined by taking into account ECB’s target inflation rate and the development of real interest rates observed during the last decades. Such a long-term expectation must not be mixed up with currently observed yields of long-duration financial instruments, which reflect numerous current factors including the state of economies today and artificial influences coming to bear including for instance quantitative easing.</p>	

<p style="text-align: center;"><b>Comments Template on EIOPA-CP-19-006</b>  <b>Consultation paper on the Opinion on the 2020 Review of Solvency II</b></p>		<p style="text-align: center;"><b>Deadline</b>  <b>15/01/2020</b>  <b>23:55 CET</b></p>
	<p style="text-align: center;"><b>General comments</b></p>	<p><b>Illiquidity:</b> We are of the opinion, that the illiquidity of liabilities is not adequately considered in the CP.</p> <p>EIOPA and the Commission have recognised illiquidity of liabilities as an important feature., especially for life insurers. In the current consultation paper, literally compliant with Commission’s request, illiquidity is only considered in the determination of the VA. This means that this feature is treated as related to spreads, which is obviously not an adequate consideration A low observed spread will diminish the effect resulting from the illiquidity of liabilities. The possibility to invest in assets with longer duration is independent from an identified VA. Illiquidity has to be considered independently from spread development. The “Report on insurers’ asset and liability management in relation to the illiquidity of their liabilities” published in December 2019, can serve as a basis for further analysis. Illiquidity is defined there as follows: Insurance liabilities are considered illiquid over a given period when they allow the insurer to hold assets for this period with a very low risk of forced selling. This property depends on the timing and the predictability of the liability cash flows that in turn are influenced by product features such as surrender options. Depending on the degree of predictability of cashflows a permanent consideration in the risk free interest rate accompanied by an intensified risk management should be sought.</p> <p><b>EPIFP:</b> Although we have agreed with some of EIOPA’s proposals to remove weaknesses of the current calculation of the EPIFP, we would like to address a related issue. EPIFP is directly related to the market consistent valuation of liabilities and separately analysed as part of the reconciliation reserve. The explicit determination of this artificial value adds a lot of complexity to Pillar 1 calculations and to the Solvency II –framework. This can also be seen in the treatment within the CP. The benefit of this calculation might differ between life and non-life business. Benefits are particularly questionable for long-term life insurance business with regular premium payment methodology.</p> <p>It is agreed that predictability of cashflows and illiquidity of liabilities can be a relevant feature of long-term life insurance business. This is not considered in the methodology prescribed to calculate the EPIFP. The currently proposed extension of the Solvency II framework emphasises the need for a strengthened liquidity management. These changes of the framework can help to remove concerns of supervisors that (in the past) have led to the request to calculate the EPIFP. The current review process of Solvency II should be used to reduce complexity where this is possible and waive requirements with only minor benefits. At least for life insurance business, complexity could be removed by removing components such as EPIFP which have dubious benefit, and simultaneously strengthening Pillar 2.</p> <p><b>Risk margin:</b> The AAE is of the opinion that the current assessment methods do not allow to conclude if the current CoC rate of 6% is too high, too low, or about right. We ask a due consideration of all elements of the risk margin calculation. This should cover the adequacy of the CoC rate and the methodology to determine the future SCRs. We also recommend a change of Article 77 (5) of the Solvency II Directive in order to allow flexibility in the CoC rate. The AAE has published a comprehensive review of the design of the risk margin on their website. (“A Review of the Design of the Solvency II Risk Margin”, published in December 2019 )</p>
	<p style="text-align: center;"><b>General comments</b></p>	<p><b>Interest rate stress:</b> We agree with the need to recalibrate the interest rate stress. We support the application of the proposed shifted approach on the liquid part of the risk-free interest rate curve, while we don’t agree with the application of stress on the extrapolated part of the curve. Preliminary impact assessment based on data from end of 2018 proves a significant impact for some member states. Decreased interest rates in 2019 will aggravate this impact. A staged approach, comparable to that proposed in the SCR–review, will be needed, to implement any changes so as to enable firms to accommodate the changes in capital management plans and avoid large scale market transactions all at same time.</p> <p>Finally</p> <ul style="list-style-type: none"> <li>• EIOPA has responded to a large number of queries via the Q&amp;A published on their website. These clarifications continue to have no basis in law, and some items continue to be interpreted differently across different territories. EIOPA should consider formalising these clarifications in the delegated acts or Level 3 guidance; and</li> <li>• EIOPA should seek further harmonization in the interpretation of Solvency II between NSAs. The regulations have been "gold-plated" with additional audit and governance requirements in different countries. Many of these requirements should be applied consistently across countries.</li> </ul>
	<p style="text-align: center;"><b>Comments on Executive Summary</b></p>	

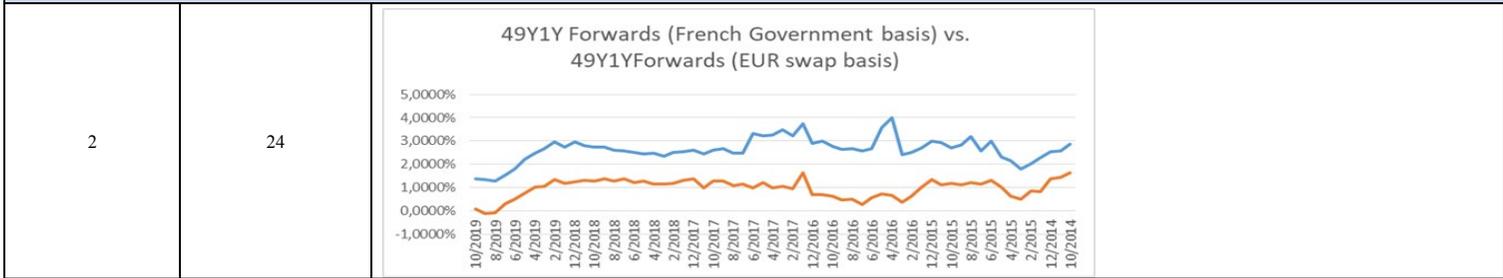
<b>Comments Template on EIOPA-CP-19-006 Consultation paper on the Opinion on the 2020 Review of Solvency II</b>		<b>Deadline</b> 15/01/2020 23:55 CET
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Chapter (enter 1, ..., 14 or A for Annexes)	Paragraph (enter only the second number, e.g. 11 for paragraph 3.11)	Comment
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2	24	<p>2.24ff: Very often the UFR (or the theoretical forward which is the rate an investor could agree today for a contract yielding a 1 year interest in e.g. 60 years) is compared to the quoted spot rates in the financial markets. However, it should be clear that the “market consistent” forward is not only depending on the overall level of interest rates but also on the steepness of the interest rate structure. Hence, in particular long term yearly forwards are extremely sensitive to the level as well as the steepness of the interest rate structure. Furthermore, an analysis of the swap market data shows that the interest rates structure starts to invert between tenors 20 and 40 years. This was the case for the swap yield curve in the past 5 years. Hence a mere limitation of assessing the liquidity of a market by limiting the observation to a certain type of financial instruments might lead to false conclusions. We analyzed also the French government bond market (please note: limiting the observation to French government bonds would also not be feasible, however we want to show how different the conclusions can become when changing the reference data or excluding data) where the interest rate structure was of a normal type (monotonously increasing with tenor) for the past 5 years. This endemic characteristic of the swap market vs. available information on the bond market leads to completely different results.</p> <p>In the following diagram we show the spot rates per 31.12.2018 of French government bonds vs. swaps.</p> <p><b>Diagram: Par rates (2.24)</b></p> <p>The inversion of the swap market for tenors beyond 20 years was not only observed per 31.12.2018 it was observable for all month end data since 31/10/2014 while the form of the government rate structure is monotonically increasing (“normal”) also for long tenors. This was also observable for all other month ends in the past 5 years.</p> <p>The form of the interest rate structures has significant implications for the implied forwards. Assuming no arbitrage, bootstrapping par rates to spot rates and then bootstrapping those spot rates to a long term forward (we took the 49Y1Y forward, meaning the rate in 49 years for 1 year as market data beyond that point is simply not available) in a market consistent and arbitrage free fashion we obtain the following historic long-term forwards:</p> <p><b>Diagram: 49Y1Y Forwards (2.24)</b></p> <p>For the past 5 years the 49Y1Y forward derived from French government bonds was on average 165 bps higher than the forwards derived from the swap market (!). It should be noted that the long term interest rate structure (spot rate) for French government decreased by 162 bps for a tenor of 50y. The same level of decrease was observable as for the swap market (also 162 bps). It should be further noted that the 50y spot rate of French government bonds was on average only 67 bps higher than the 50y swap spot rate. Hence almost 100 bps difference in a “market consistent” forward can be attributed only to the steepness of the interest rate structure. This leads to the following fundamental questions:</p> <ul style="list-style-type: none"> <li>• Are swap market participants smarter than investors in the bond market hence their view should be regarded as the market consistent one?</li> <li>• By how many investors is the swap market driven? Is liquidity provided by only a few entities with a lot of financial resources (or a high degree of risk appetite)?</li> <li>• Should the framework for evaluating long term liabilities in the retirement and pension market for retail customers rely on a “market opinion” of investors who are participating in a highly volatile interest rate derivative market?</li> </ul>
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2	26	<p>2.26f: Interest rate markets are influenced and distorted by the ECB</p> <p>Since 2009 the ECB has implemented several non-standard monetary policy measures, i.e. asset purchase programs (APP), to complement the regular operations of the Eurosystem. The purchase of bonds from the public and private sector by the ECB led to high pressure on the bond returns. This is e.g. illustrated in the current Financial Stability Review (FSR Nov. 2019, p. 40) of the ECB that points out that „According to model estimates the ECB’s policy measures and spillovers from easing measures conducted by the Federal Reserve contributed to higher bond and equity prices“. A speech by Philip R. Lane (Member of the Executive Board of the ECB) on November 25th, 2019 at University College London contains the following conclusion: “Our non-standard measures of negative interest rate policy and asset purchases brought down the overall level of the yield curve to a region that is, by definition, unreachable under a zero lower bound and contributed to a considerable flattening of the term structure.” Quantifying the impact the transcript says: “Overall, taking the APP, negative rates and rate forward guidance together, ten-year sovereign bond yields would have been almost 1.4 percentage points higher in 2018 without those measures.”</p> <p>The interventions of the ECB led to a situation where interest rates are no longer determined by supply and demand by many market participant. A free or functioning market is by definition free from interventions by one market participant with extremely dominating market power. In our view the impact of the ECB policy contradicts capital markets theory which assumes functioning and consistent markets.</p> <p>Without a free market, the price of an asset, in our case the risk-free interest rate, cannot be determined reliably. A sound model is required to determine valuation parameters, especially the valuation yield curve. The current yield curve extrapolation mechanism starting at LLP 20 for the Euro is such a robust model. The artificial shortage in the bonds market due to transactions of the ECB and the resulting low yields also influences the swap market. We expect the impact to be highly material for maturities above 20 years. Accordingly, we question the depth and liquidity of the swap market for higher durations. Dismissing the robust model (current yield curve extrapolation mechanism starting at LLP 20 for the euro) in exchange for using swap-rates for maturities longer than 20 years, which, as we have argued, are by no means market rates (due to ECB-intervention) is in our view not justified. --&gt;</p> <p><b>continued</b></p>
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2	26	<p><b>Continuation:</b> Moreover, it might be of importance how to deal with future purchase programs by the ECB. If the swap markets are further influenced, it might be even reasonable to decrease the LLP.</p> <p>One operational objective identified by EIOPA is to limit procyclicality (cf. ‘Systemic risk and macroprudential policy in insurance’, EIOPA-BoS-17/317) and the LTG measures serve this purpose. We also share EIOPA’s view stated in recital 2.24 that reliability and robustness of the term structure (also in terms of market turbulence or crisis) are important prerequisites to ensure a robust supervisory system. Monetary policy measures of the ECB reduce amongst other things the yields on long-term investments and thus produce pro-cyclical effects and contribute to macroprudential risks for the insurance sector. A lower LLP increases resilience of the solvency position of undertakings against ECB interventions. In our comment we argue that a close match of very long-term liabilities with corresponding assets, i.e. swaps, is hardly feasible and is not desirable. The higher the LLP the higher the impact of ECB interventions in the market which would lead to involuntary and unintended volatility of the SCR ratios under Solvency II. Increased demand for long-term bonds increases market pressure and may lead to a further fall in interest rates. Rephrased: An increase of the LLP comprises the risk to increase pro-cyclical impacts in the insurance market even further.</p> <p>Final conclusion: We are surprised that the consultation paper does not contain a detailed discussion of the ECB’s measures, their impact, and their implications, so we would like to ask EIOPA to provide a sound analysis of the impact the ECB actions have on the insurance industry.</p>	
2	27	<p>2.27: The LLP is used to construct a risk-free yield curve to value liabilities, which should be free from credit risk. Recital 30 of the Omnibus II Directive states that it should be possible to match liability cash-flows up to the LLP with bond cash-flows (matching criterion). This is a very reasonable requirement and we have not seen arguments in EIOPA’s proposal why this requirement should be removed. Using Swaps alone, it would not be possible to match the liability cash-flows as this matching not only requires to hold swaps but also fixed-income instruments delivering the return which the floating leg of the Swap requires, which is an unsecured interbank-lending rate. Therefore, the insurance company is exposed to credit risk, when holding instruments delivering this interbank rate, e.g. a money-market account. Thus, the construction, swap plus instrument delivering the interbank-rate, is not risk-free, as required and thus not suited to hedge liabilities. Apart from the credit risk involved, it is unclear, whether there is sufficient availability of instruments delivering the interbank rate.</p> <p>In any case the swap rates reflect the market assessment of the credit risk of the unsecured interbank lending contract defining the floating leg. In times of crisis (e. g. in 2008) the spreads for unsecured interbank lending rose sharply. An insurance company would have incurred enormous losses from a fixed rate receiver swap contract, whereas there would not have been a corresponding reduction of technical provisions (because of the basic risk free interest rate curve being adjusted for credit risk according to Art. 44 and 45 of the delegated regulation 2015/35).</p> <p>In the event that the swap counterparty defaults, the insurance company is almost protected against losses because of collateralisation of the swap contract. However, without the swap contract it is immediately exposed to interest rate risk again with the consequence of an immediate sharp deterioration of its solvency position. As defaults of financial counterparties typically occur in stressed market conditions it is unclear whether the insurance company would then be able to find another counterparty to close its open position. Episodes like the Japanese “2003 VaR shock” show that stressed market conditions may reduce banks’ risk bearing capability sharply.</p>	

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2	29	<p>2.29: We take the view that today's volume of the swap market is not sufficient and refer to an ECB working paper:  The paper Hoffmann, Langfield, Pierobon, Vuillemeys: Who bears interest rate risk?, ECB Working Paper Series No 2176, September 2018, studies the exposure to interest rate risk arising from EUR denominated interest rate swaps borne by the different groups of market participants; for SSM banks, their exposure to interest rate risk excluding and including their interest rate swap positions are analyzed (data as of Dec. 31th, 2015). In particular, the authors study changes in present values caused by a 1bp parallel shift of the interest rate curve. The authors conclude that SSM banks use interest rate swaps to reduce their interest rate risk and that their remaining interest rate risk (after partial hedge by swaps) is small (cf. table 5 loc. cit.). Figure B.2 in Appendix B illustrates the impact of a +1bp parallel shift of the interest rate curve on the present value of EUR interest rate swap positions for different groups of market participants: The present value of insurance companies' and pension funds' aggregate position would decrease by 170 million EUR; a net fixed rate receiver position is also borne by non SSM bank and CCPs (decrease of PV by 101.2 million EUR). „Asset managers, governments, non-financial corporations, and non-classified counterparties" have a big net payer position (PV increases by 242.8 million EUR) whereas the remaining aggregate net payer position is borne by the SSM banks (increase of PV by 28.4 million EUR).  This has to be compared to the increased interest rate sensitivity of insurers' technical provisions caused by a change of method to compute the regulatory risk free yield curve. According to EIOPA's estimate (cf. lit. 2.42 of the consultation paper) a parallel shift of the full yield curve by -1bp would increase technical provisions by 6000 million EUR, a parallel shift of the liquid part (up to LLP 20) combined with new extrapolation would increase technical provisions by 4000 million EUR.  It has to be concluded that an increase of technical provisions' sensitivity of 2000 million EUR is far too huge to be hedged on today's swap market. Banks could only absorb a tiny fraction of insurance companies' demand (unless they were willing to accept a huge open fixed rate payer position that would contradict sound risk management as well as regulatory capital requirements). If governments do not want to bear such a huge fixed rate payer position only hedge funds remain as possible counterparties.  Furthermore, the quoted paper does not differentiate between different maturities. For forward rates beyond a time horizon of 20 years the imbalance must be even more striking as banks hardly have any fixed rate paying assets with a maturity of more than 20 years on their balance sheet. (There are some loans running so long but debtors typically have legal or contractual rights to repay early.)</p>	

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2	30	<p>2.34: We would like to elaborate on the claim “underestimation” in the following.</p> <p>An indispensable prerequisite to determine an underestimation of the technical provision is the knowledge of a “correct” value. In case of long-term liabilities and in absence of suitable financial instruments the extrapolated risk free interest rate has to be used when calculating the value of the technical provisions.</p> <p>The ultimate forward rate plays an important role. This rate does not depend on current market developments and shall be stable over time and shall only be changed as a result of changes in the long-term expectations (Art. 47, SII- Directive). The methodology to derive the ultimate forward rate shall be clearly specified in order to ensure the performance of scenario calculations by insurance and reinsurance undertakings. It shall be determined in a transparent, prudent, reliable and objective manner that is consistent over time. This methodology has been developed in the year 2017.</p> <p>Each assumption of a possible underestimation of technical provisions is based on the underlying assumption that the participants who are active in the long term swap market can predict correctly the expected 1-year interest rate in e.g. 60 years. This is evidently not possible over such long time periods. Furthermore, we substantiated in our comments on section 2.2.4 how unstable and volatile those predictions are and that market participants who are active on different markets (bonds vs. swaps) come to completely different conclusions about long term yearly forwards.</p> <p>Just the fact that current swap rates are a “consensus” estimate of market participants does not make those estimates necessarily correct. Due to the nature of the UFR and the volatility of the level as well as the steepness of the interest rate structure it can be expected that there will be times where a theoretical 60Y1Y forward is below the current UFR and times where this theoretical value would be above the UFR.</p> <p>If a theoretical 60Y1Y forward is below the current UFR for a long term the UFR can be adjusted stepwise over time in line with the agreed methodology. Currently this is the case and the UFR of currently 3.75% will be decreased by 15 bps annually until a level of currently 3.55% is reached. In line with the methodology and the development of the real rates this value can be changed. Due to the methodology the UFR cannot be below 2% as long as ECB’s target inflation rate of 2% remains unchanged. --&gt; <b>continued</b></p>	
2	30	<p><b>Continuation:</b> If there are concerns that long term liabilities are “under-reserved” and that the current system gives insurers with long term liabilities a “loan” then it should be noted that the life insurance industry in e.g. Germany was very well able to pay back loans to the policyholders in the past as the additional reserves (interest rate reserve or “Zinszusatzreserve” in German) German life insurers have created over the past years under local GAAP rules due to the ongoing low interest rate environment amounted to about 65 bn EUR per year end 2018. Comparable to this life insurance undertakings in other countries (like Austria, Belgium) have established additional reserves to cope with the low interest rate environment. The current system is very well suited to enhance sound risk management as well as ensuring that policyholders get at least their guarantees paid out, on the other hand putting more pressure on a debtor to pay back a loan faster does not decrease the probability of default especially if there are no plausible and justifiable reasons to disturb a mostly very well-functioning system of smooth accommodation to new and more challenging economic environments.</p>	

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2	30	<p>ad “underestimation of technical provisions (Issue I)”</p> <p>We do not share EIOPA’s concern “that technical provisions are underestimated as interest rates for long-term maturities (and thus long-term liabilities) are discounted with too optimistic interest rate assumptions” (see para. 2.34) because</p> <ul style="list-style-type: none"> <li>• The DLT assessment of the swap market conducted by EIOPA does not cover liquidity issues in the necessary depth. We ask EIOPA to assess the depth, liquidity and transparency of the swap market according to the same criteria as the depth, liquidity and transparency of the bond and of the government bond market. In particular the matching criterion should be applied.</li> <li>• The DLT assessment of the swap market conducted by EIOPA does not cover a representative time span. In particular no historic analysis of possible market stresses has been carried out. Therefore, the given minimum criteria, which the European commission has set, were not met.</li> <li>• Applying the matching criterion to the bond market gives no justification for an LLP greater than 20. EIOPA finds an LLP of only 15 or 23 years (with or without UL/IL insurance) for the euro (paragraph 2.75). Thus, there is no case for increasing the LLP to 30 years or more at all. Giving due consideration of the ECB’s interventions, the matching criterion delivers an LLP of 15 years even without UL/IL insurance (instead of 23 years).</li> <li>• Bond liquidity has declined over the last years. This means, that for the euro a lowering of the LLP should have been analysed as well. The aim is not to go for lowering the LLP but more to prove that 20 years is a conservative approach. On the contrary, given the actual market experience, the conscious setting of the LLP for the euro to 20 years by the European Legislator seems to leave no room for increasing it.</li> <li>• Carrying out stability considerations we learned that using swaps does not lead to robust forwards beyond a maturity of 20 years. The form of the interest rate structures has significant implications for the implied forwards. For the past 5 years the 49Y1Y forward derived from e.g. French government bonds was on average 165 bps higher than the forwards derived from the swap market. In the same period for maturities of 10 years and 20 years, there was on average little difference between the spot yields implied from French government bond yields versus those implied from swap rates. (Consequently the same is true for implied 10Y10Y forward rates.) We conclude that there are very substantial market frictions beyond a maturity of 20 years; an assessment of forward rates based only on a subset of financial instruments (here: swaps) seems arbitrary and therefore a negligent approach.</li> <li>• Interest rate markets are influenced and distorted by the ECB. ECB measures lead to a situation where interest rates are not determined by supply and demand anymore. This in particular affects long maturities. Scope and size of ECB intervention in capital markets make it advisable to conduct an in-depth survey on its effects before considering a change of the current framework.</li> <li>• Ignoring these effects would result in too conservative calculations.</li> </ul>	
2	38	<p>ad “risk management incentives (Issue II)”</p> <p>We disagree with EIOPA’s statement that setting a LLP higher than 20 would set proper incentives for adequate risk management. A higher LLP could only set proper incentives for risk management if the increased interest rate sensitivity of technical provisions could be hedged by insurance companies. This is not the case because</p> <ul style="list-style-type: none"> <li>• Swaps are no substitute for bonds when hedging liabilities. Particularly, in the event that the swap counterparty defaults, the insurance company is subject to interest rate risk as then again there is an open position for the market risks. As a default of a financial company tends to occur in stressed market conditions it might be difficult to find a new counterparty to replace the swap.</li> <li>• Referring to an ECB working paper we come to the conclusion that today’s volume of the swap market is not sufficient for hedging liabilities’ increased interest rate sensitivity caused by an increase of the LLP. According to EIOPA’s estimate, the increase of technical provisions caused by a -1bp parallel shift of the full yield curve exceeds the increase caused by a -1bp parallel shift of the liquid part of the yield curve (up to LLP 20) in combination with a new extrapolation by 2000 million EUR. We conclude that such an increase of technical provisions’ sensitivity is far too huge to be hedged on today’s swap market. Banks could only absorb a tiny fraction of insurance companies’ demand (unless they were willing to accept a huge open fixed rate payer position that would contradict sound risk management as well as regulatory capital requirements). If governments do not want to bear such a huge fixed rate payer position only hedge funds remain as possible counterparties.</li> <li>• Swaps cannot be used to replace bonds due to local accounting standards in some jurisdictions. Accordingly, an increase in LLP will not change risk management incentives in all jurisdictions. However, an increase in LLP would introduce additional volatility jeopardizing the idea of a robust supervisory system and policyholder protection</li> </ul>	

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2	39	<p>2.39: Dependency between extrapolation and interest rate stress according to the standard formula</p> <p>In “EIOPA’s second set of advice to the European Commission on specific items in the Solvency II Delegated Regulation” (EIOPA-BoS-18/075) EIOPA recognized in para. 673 that there is an “inconsistency between the valuation of own funds and the risk measurement”. We agree with this assessment and would like to repeat and underline the following arguments that were made in the corresponding consultation process:</p> <ul style="list-style-type: none"> <li>• The extrapolation of the stressed risk-free curves is the only way to derive consistent, risk-sensitive and economically sound stressed risk-free curves in the illiquid part of term structure and the only way to compute the true loss in basic own funds.</li> <li>• The current approach leads to an inconsistency between the risk measurement of interest rate risk and the valuation of own funds where an extrapolated risk-free curve is used. This inconsistency has the undesirable implication that the stressed risk-free curve can never become a realized risk-free curve. Accordingly, the inconsistency might lead to contradictory steering impulses with regard to own funds stabilization and interest rate risk hedging.</li> <li>• Stressing the UFR is not in line with interest rate theory (c.f. work of Professor Keller-Ressel at TU Dresden). A significant stress of a long-term rate could economically only be justified by a massive structural change in the economy. Capturing such structural changes would go beyond the scope of the standard formula.</li> </ul> <p>We recommend EIOPA to change the current approach (i.e. extrapolate the stressed risk-free curves to a constant UFR) when revising the interest rate stress in order to increase the credibility of the interest rate stress methodology.</p> <p>Please see also our comments to Chapter 5, para. 1.</p>	
2	48	<p>2.48f: ad “stability of the solvency position and impact on financial stability (Issue III)”</p> <p>We take the view that unjustified increasing the LLP would lead to an increased volatility of the solvency position and could endanger financial stability.</p> <ul style="list-style-type: none"> <li>• As today’s volume of the swap market is not sufficient we take the view that an increase in demand in long-term swaps triggered by an LLP greater than 20 – which cannot be justified at all - would result in huge unhedged fixed rate payer positions for the swap counterparties and lead to higher dependencies between (re)insurance undertakings, banks and hedge funds which could endanger financial stability and could produce market distortions thus increasing macroprudential risks.</li> <li>• A regulation that forces to hedge against a parallel shift of interest rates will force insurers to buy additional protection against a further decline of long term interest rates (when these interest rates are already low and vice versa). This would create a pro-cyclical effect that would be harmful to policyholders. Hence, increasing the LLP increases pro-cyclical impacts in the insurance market significantly.</li> <li>• Since interest rate markets are influenced by the ECB, a higher LLP causes higher impact of ECB interventions in the market and leads to further volatility of the solvency position. Increased demand for long-term bonds increases market pressure and may lead to a further fall in interest rates. In other words, an increase in the LLP will heighten the risk of pro-cyclical impacts in the insurance market even further.</li> <li>• Stating that using swaps does not lead to robust forwards beyond a maturity of 20 years we would like to emphasise that the endemic inversion of the rate structure in swap markets opposes fundamental economic theory (where a term premium should be observable for investments with higher tenors). Furthermore, limiting the DLT assessment only to the swap market would decrease and not increase financial stability as it would make the evaluation of long term retirement and pension liabilities depending on the view of (possibly) only few investors in the interest rate derivate market.</li> </ul>	

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2	66	<p>2.66: The DLT assessment of the swap market conducted by EIOPA does not cover liquidity issues in the necessary depth The DLT assessment of the swap market presented in chapter 2.2.4.4.1 hints that the Euro swap market might be DLT for maturities 25, 30, 40, and 50. We take the view that selective observations cannot lead to robust and reliable market information. With regard to the DLT assessment of the swap market the consultation paper refers to the method in Annex 2.1. EIOPA states that the same thresholds that ESMA proposed for assessing liquidity for the purpose of MiFiD 2 were applied. No justification is given why the ESMA approach is considered as sufficient for assessing depth and liquidity.</p> <p>We recommend EIOPA to assess the depth, liquidity and transparency of the swap market according to the same criteria as the depth, liquidity and transparency of the bond and of the government bond market. In particular the matching criterion should be applied.</p> <p>The DLT assessment of the swap market conducted by EIOPA does not cover a representative time span The analysis concerning the DLT criteria was only conducted for the years 2016 and 2017 by EIOPA. The call for advice by the European Commission explicitly states: „This evidence should be provided at the very least for the time period 2016-2018, and ideally several years further in the past, including to the extent possible periods of market stresses and increased interest rates, and be accompanied by a variation analysis of those parameters relevant for determining the last liquid point. EIOPA presents in chapter 2.2.4.4.1. within the consultation paper only an analysis of the years 2016 and 2017. The year 2018 was not presented. In particular no historic analysis of possible market stresses has been carried out. Therefore, the given minimum criteria, which the European commission has set, were not met.</p>	
2	72	<p>2.72 Today's application of the Matching Criterion neglects substantial cash flow positions Extrapolation is applied to forward rates beyond the LLP. The discount factor for a cash flow due at time LLP+x (for some x &gt;0) is <math>(1+y(LLP))^{-LLP} * (1+f(LLP,LLP+x))^{-x}</math> where y(LLP) denotes the annualized spot zero yield for term LLP and f(LLP,LLP+x) denotes the annualized time 0 forward interest rate for a loan disbursed at time LLP and to be repaid at time LLP+x. It seems plausible that the insurance company will hedge the present value of a payment due at LLP+x as far as possible. Extrapolation reduces volatility of the second factor but the present value of the payment due at LLP+x depends on the first factor in the same way as the present value of a payment due at LLP. Therefore the matching criterion should be interpreted in such a way that it should enable the matching of liability cash flows that are due beyond LLP against a change of their present value resulting from a change of the DLT- part of the interest rate curve (in combination with unchanged forward rates beyond LLP). So a payment due at time LLP+x (weighted with its time LLP present value) should also be understood as being "discounted with the non-extrapolated interest rate y(LLP) in the calculation of the best estimate". Let <math>CF_B(k)</math> resp. <math>CF_L(k)</math> denote aggregate cash flows of bonds resp. liabilities in year k. Because of the above reason we believe the matching criterion should be interpreted to stipulate the following inequalities to hold:</p> <p>(i) <math>CF_L(k) \leq CF_B(k)</math> for all <math>k \leq LLP</math>  (ii) <math>\sum (1+f(LLP,LLP+j))^{-j} CF_B(LLP+j) \geq \sum (1+f(LLP,LLP+j))^{-j} CF_L(LLP+j)</math> , where j takes values from 0 to k-LLP for all <math>k &gt; LLP</math></p> <p>However the diagrams comparing liability vs bond cash flows in annex 2.4 of the consultation paper do not reflect the need for bonds to hedge present values of liability cash flows with a maturity of more than 30 years against a change of the DLT- part of the interest rate curve (that will certainly exceed the volume of available bonds with a maturity beyond 30 years).</p>	

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2	72	<p>2.72: Matching criterion: It should be noted that even with the insufficient consideration of long-term liabilities and with the additional assumption that asset cash flows can be brought forward by up to five years in order to close previous gaps (paragraph A.35), EIOPA finds a LLP of only 15 or 23 years (with or without UL/IL insurance) for the euro (paragraph 2.75). Thus, there is no case for increasing the LLP to 30 years or more at all. Moreover, the tacit assumption that the entire bonds volume would be available only to insurance undertakings is inappropriate. Of course, there are many other competing demanders. The most obvious example is the large-scale Asset Purchase Programme (APP) of the ECB, which permanently withdraws a substantial part of the bonds volume from the market. If one repeats EIOPA's analysis presented at p. 775 with asset cash flows that are only adjusted for the ECB holdings*, gaps in the net cash flow (bonds minus liabilities) become larger and more frequent while surpluses become smaller and less frequent. As a result, the lack of bond cash flows in year 16 (and some later years) cannot be compensated any more by surpluses in the years that shortly follow. Giving due consideration of the ECB's interventions, the matching criterion therefore delivers a LLP of 15 years even without UL/IL insurance (instead of 23 years).</p> <p>*APP volume less asset backed securities (ABSPP): EUR 2543 bn; iBoxx EUR Overall: EUR 9896 bn; ECB holdings as percentage of the market: 26%</p>	
2	76	<p>2.76: In addition to the matching criterion, recital 30 of the Omnibus II Directive (2014/51/EU) states explicitly that under market conditions similar to those of 2014, the LLP for the euro should be 20 years.</p> <p>Analyses show, that if market conditions have changed at all, then liquidity of bonds markets has not increased but rather declined in comparison to 2014.</p> <p>The total outstanding bonds volume represented in the iBoxx EUR overall index has indeed increased from € 7.5 bn (March 2014) to € 9.9 bn (August 2019). However, the ECB has permanently withdrawn € 2.6 bn from the market so that the net volume available on the secondary market is only € 7.3 bn which is lower than in 2014. Moreover, in the same time technical provisions of insurers have increased by about 23% (in the five euro zone countries with the highest amount of technical provisions (Germany, France, Italy, Spain, the Netherlands) from € 4.2 bn to € 5.2 bn). Therefore, the ratio of available bonds to technical provisions that need to be covered declined by 20%. Matching long-term liabilities with bonds has become harder.</p> <p>This means, that for the euro a lowering of the LLP should have been analysed, too. In contrast, given the actual market experience, the conscious setting of the LLP for the euro to 20 years by the European Legislator seems to leave no room for increasing it.</p>	
2	90	<p>90: Analysis of the Alternative Extrapolation method</p> <p>The speed of convergence (alpha) in the alternative extrapolation method has a significant impact on the value of the technical provisions for companies with long dated liabilities. However, this parameter seems to be set arbitrarily. It is difficult to justify it using economic arguments.</p> <p>Furthermore, the alternative extrapolation method can lead to additional challenges when simulating the term structure of forward rates. The reason for this is that the term structure of forward rates is not guaranteed to be continuous. It can have a (significant) jump at LLP which makes a stable and robust implementation as well as use of short rate models (e.g. widely used in the industry Hull-White model) more challenging.</p>	

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2	108	<p>Local GAAP:</p> <p>2.108ff: The regulatory guarantee and profit-sharing requirements for life insurance with-profit business are in some countries bound to investment returns under local GAAP rules. These profit-sharing mechanisms are a component of current life insurance contracts in force of many life insurance companies (e.g. in Germany). Hence, besides the Solvency II requirements life insurance companies are required to also ensure that investment returns under local GAAP are sufficient to cover the guaranteed returns of the contract portfolio. This plays a crucial role within the asset management as well as the choice of investments of those companies. Within above mentioned local GAAP rules bonds are usually very well suited to cover economic as well as balance sheet risks. Receiver swaps are less suited for this, since swaps need to be depreciated directly under local GAAP rules when their market value decreases while under regulatory local GAAP accounting standards the technical interest rate for evaluating insurance liabilities changes only slowly over time. This leads to volatile statutory profits. It is important to note, that the German legal quote (mandatory policyholder participation, “MindZV”) is based on statutory profits and a high volatility of those leads to policyholder participation levels which might be not sustainable and thus erode the safety of the guarantees for policyholders with long-term contracts.</p> <p>Furthermore, using swaps might lead to an undue amount of counterparty default risk for both parties involved, also under the Solvency II regime for the insurance company, hence they would need to be collateralized for the counterparty. However, no funds from assets covering liabilities may be used as collateral for derivatives in Germany. The possibility of collateralisation is therefore very limited in relation to swaps with very long tenors whose market value is extremely sensitive to interest rate changes. Therefore, hedging long term liabilities with receiver swaps is only to a very limited extent possible and increases other risks like, e.g., liquidity risks for providing sufficient collateralisation also on short-notice.</p> <p>Due to the above stated regulatory restrictions an increase in LLP will not change risk management incentives in all jurisdictions. However, an increase in LLP would introduce additional volatility jeopardizing the idea of a robust supervisory system and policyholder protection.</p>	
2	108	<p>2.108f: Increasing the LLP increases pro-cyclical impacts in the insurance market significantly</p> <p>Life insurance technical cashflows are not deterministic but stochastic. Because of profit participation and policyholders’ early surrender options (with guaranteed surrender values in e.g. Germany) they depend materially on the future development of interest rates: sensitivity of life TP to a change in interest rates is highest when interest rates are already low. Uncertainty is biggest with respect to cashflows in the very distant future. So although bonds and swaps can in principle hedge interest rate sensitivity of TP infinitesimally, a life insurance company will have to increase asset duration after a substantial decline of interest rates (and vice versus) in order to retain that property. A regulation that forces to hedge against a parallel shift of interest rates will force insurers to buy additional protection against a further decline of long term interest rates when these interest rates are already low (and vice versa). This would create a procyclical effect that would be harmful to policyholders. We take the view that the “abnormally strong demand response of German insurance firms to a change in the price of long duration bonds” observed from 2009 to 2014 (cf. lit 2.51 of the consultation paper) already was the consequence of the imminent introduction of the market consistent Solvency II capital requirements (remember that QIS4 was already conducted in 2008).</p> <p>While the use of swaps for hedging purposes can be a legitimate risk management tool for some entities, forcing the complete insurance market to use more swaps for hedging their long-term guarantees by extending the LLP will materially increase systemic risks. Summing up, an increase of the LLP comprises the risk to increase pro-cyclical impacts in the insurance market significantly.</p> <p>The volatility which an increase of the LLP would cause in the evaluation of long term liabilities and therefore in own funds of life insurance companies would by far exceed the beneficial impact of other LTG instruments introduced within the Solvency II regime such as the volatility adjustment and the equity dampener. Those instruments would be insignificant compared to the effects of a higher LLP.</p>	

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2	127	<p>2.127: Overall, we hold the view that an increase in demand in long-term swaps triggered by an LLP greater than 20 would lead to higher dependencies between (re)insurance undertakings, banks and hedge funds which could endanger financial stability and could produce market distortions thus increasing macroprudential risks.</p> <p>This analysis backs our view that it is highly unlikely that after changing the LLP the swap-market will still be deep enough to hedge the increased interest rate sensitivity of technical provisions. If insurance companies do find the amount of swap contracts necessary to hedge their increased interest rate sensitivity, this would entail a huge open (unhedged) fixed rate payer position for their swap counterparties. If a fall of interest rates causes the default of these counterparties, the insurance industry will immediately be exposed to huge interest rate risk and so suffer a sharp deterioration of its solvency position. It is very dangerous to increase the LLP, thus creating a systemic shock to the swap-market on the one hand and exposing the insurance industry to a systemic risk emanating from the swap market on the other hand.</p> <p>In the same fashion as the matching criterion (see 2.2.4.4.3 in the consultation paper) is applied to the bond market, the matching criterion should also be applied for the swap market. The consultation paper defines liquidity for the swap market in a completely different fashion than for the bond market. We refer here to our comment. The DLT assessment of the swap market conducted by EIOPA does not cover liquidity issues in necessary depths. EIOPA and/or some NSAs might argue that by extending the LLP the demand in swaps will increase and as economic theory predicts enough demand in combination with a high enough price (here: a low enough swap level at which fixed coupons are exchanged for short term interest) will secure sufficient supply. However, one should bear in mind that we are not discussing a market where physical products are traded (like computers, cars, soy beans etc.) and the trade is closed immediately after the purchase but that a market is discussed where derivative contracts are agreed on and those contracts can incur a non-limited loss for each counterparty entering in such a contract. While the insurer would at least economically be hedged (but not necessarily under local GAAP rules, see 2.108). Swaps cannot be used to replace bonds due to local accounting standards in some jurisdictions) the risk bearing capacity of the suppliers (counterparties entering payer swaps) is not clear. At time zero of a contract – in principle – any entity could enter the payer side of a swap as no purchase price is paid at contract start (since the swap level is the agreed price), however it is not clear to which amount those entities would have a sufficient risk bearing capacity to hold those contracts until maturity which life insurers would need to do as they would try to hedge their liabilities by holding those receiver swaps.</p> <p>In short, higher demand would drive the swap rate down and might possibly secure enough supply. But would the entities securing the supply have a sufficient risk bearing capacity to still stay in the contracts if interest rates fall by e.g. 100 bps or 200 bps?</p>	
2	164	<p>2.164: Since Solvency II framework came into force in 2016, Matching Adjustment has been an important mechanism to reduce artificial volatility in the Balance Sheet, the downside being the loss of diversification in the SCR calculation from the imposed Ring-Fenced Fund treatment of portfolios applying this measure. Also, restrictions in assets and product eligibility have been a problem for the entities.</p> <p>Removing the Ring-Fenced requirement will be highly positive, so will the improved eligibility for some assets.</p> <p>Further improvements, not in the current scope of EIOPA paper but to be considered in future, would be reducing restrictions in liabilities features (future premiums, surrender values, ) and allowing some active trading in the asset portfolio, at least in case of downgrading of assets held.</p> <p>Thus, we support EIOPA's proposal to remove restrictions on diversification between MA and non-MA portfolios in the standard formula. We expect that removing restrictions will:</p> <ul style="list-style-type: none"> <li>- Ensure a level playing field</li> <li>- Improve transparency and comparability</li> <li>- Avoid unjustified constraints to the availability of long-term guaranteed insurance products and the ability of insurers to make long-term investments</li> </ul> <p>Currently the Matching Adjustment is only used in the UK and in Spain. We recommend investigating whether the requirements from the supervisors within the EU are aligned in order to make the methodology better accessible for insurers in all countries in the EU in a responsible way.</p>	

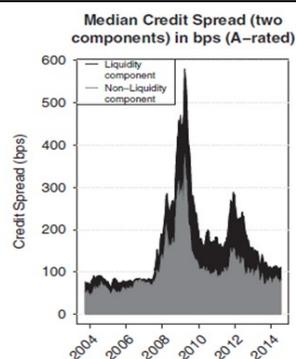
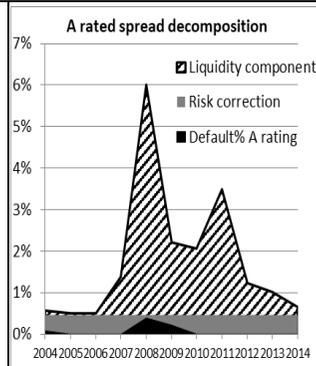
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2	166	2.166-2.200: We welcome EIOPA's recognition that firms may undertake certain risk transformation transactions (such as securitisations) in order to obtain a portfolio of MA-eligible assets. However, EIOPA's proposed look-through approach to assessing the suitability of restructured assets to be included in Matching Adjustment portfolios are unduly restrictive, and the actual degree to which the underlying assets need to be coherent with eligibility criteria is not clear. Additionally, some topics in MA asset eligibility remain unclear, such as the interpretation of the principle of "sufficient compensation" with regards to certain callable bonds such as those with make-whole clauses, 3-month or 6-month call provisions, or calls if and when there is a major change in tax law.	
2	325	2.325: We reject the safeguards proposed in 2.331, 2.332 and 2.333. The safeguards presented in 2.325 are sufficient. See answer to Q2.5.	
2	331	It would be helpful to explain the concern that drives these requirements. That will focus the discussion.	
2	336	All options, where a calculation of BEL is needed for the construction of the VA are a big problem from a process' point of view. Simplifications, e. g. taking results from previous quarters, or even keeping the application factor constant during the year, are inevitable. This should be addressed in the regulations directly. In this specific case it seems to be adequate to take the market value of all assets in the denominator instead of the BEL to reach the same goal.	
2	394	We support EIOPA's proposal to take into account the illiquidity of liabilities. The VA does not have a strict binary view on illiquidity as the MA. Therefore not only should this approach A take into account the illiquidity stemming from cashflow features, but also from the predictability as well as stated in 2.385. That is why it seems appropriate to take into account the best information on lapse and mortality available, if it is in sufficient quality. So for companies using an internal model or USPs, the information should be used here instead of standard formula stresses.	
2	401	We support EIOPAs choice to proceed with the alternative of option 2.399 due to the problems of determining <i>factor II</i> .	
2	417	We support EIOPAs choice to proceed with approach A as the models should indeed reflect the contractual characteristics and related risks.	
2	424	Please note that the last presented pro argument in this paragraph does not take into account models where a common valuation of the whole cashflow is performed, i. e. both guarantee CFs and FDB are needed to value FDB and therefore can only be reported ex post, but not unbundled. This is the case in Germany as a result of the profit participation rules and cannot be changed.	
2	425	2.425 – 2.477: We strongly question the risk correction calculated as a % of spread. The literature referred to in the consultation paper (p. 135-140) is based on theoretical models and their practical use under Solvency II might not always be very clear. Webber (2007), Feldhütter et al. (2012), Van Loon (2017) and others are based on a Merton structural model or regressions linked to bid-ask spreads; such approaches are rather theoretical and may not provide sufficient insight into the yields that insurers can obtain by holding their assets until maturity. <ul style="list-style-type: none"> <li>• A practical view on the illiquidity premium may simply be to compare actual spreads to realized default losses (or risk corrections); this approach would be relevant for insurers' realized cash flows and would often lead to higher illiquidity premiums compared to academic literature. The graphs below compare the A rated spread – defaults (=liquidity component) to the approach of Van Loon (2017): <b>see Graph attached</b></li> <li>• Even if spread increases can be partly explained by default expectations, it would not be appropriate to set the risk correction at a fixed % of spreads (beyond a stable fundamental spread used under the VA) for the following 2 reasons: <ul style="list-style-type: none"> <li>o The risk correction would be calibrated point in time leading to extra fluctuations and reducing the VA counter-cyclicality, which is against the philosophy of a long term measure</li> <li>o There would be a double-counting with a fixed spread shock under SCR spread as it is the case under the current standard formula.</li> </ul> </li> </ul>	

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2.429: The rationale of the decoupling of the calculation of the RC for the VA from the calculation of the FS for the MA is not clear. Both have the same intention and meaning.  
The property that the RC is very stable over time is not a deficiency in itself. Considering unexpected losses seems reasonable, but there is no rationale that this is the case for the MA as well. Introduction of Option 6 (or the respective aspect in Option 1) for the VA, but not for the MA creates a level playing field issue.

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439

~~This might discourages good risk management by diversifying over governments.~~  
The 50% compares historical average spreads to historical average default rates. This is different from (expected) defaults being 50% of spreads at each moment in time.

2

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Please note that the quoted statement “We also find that credit spreads do not adjust in response to realized default rates.” is a confirmation for a stable risk correction.  
Further concerns regarding the relevance of the main quoted paper Giesecke et al. (2011) are the following:

- It is built on data from USA rather than Europe
- It takes a very long average of 150 years into account. That would only be adequate if the conditions are very stable. Though that is just denied by the relative approach for the risk correction.
- Especially it includes data from the 19th century. That does not seem to be relevant anymore and probably distorts the overall result
- The data does not take into account the superior credit quality in insurance portfolios.

Finally we would like to point out that there is recent literature available that indicates totally different results, e. g. Odermann, Cremers [2013]: ‘Komponenten und Determinanten des Credit Spreads: Empirische Untersuchung während Phasen von Marktstress’, Frankfurt School - Working Paper Series, No 204.  
Therefore we see the technical basis not strong enough to base a proposal of a change of definition of the risk correction on it. If such a definition is introduced as a safeguard method against wrong incentivization it has to be recognized that it means a sound introduction of prudence. That is to be reflected in the overall picture, e. g. in the level of the GAR.

2

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2.441-2.444: It should be considered that the bid-ask spread is only a lower bound for the illiquidity premium. The real buy-and-hold investors are not taking part in market activities (they are not bidding) and are earning the illiquidity premium instead. Therefore those earned illiquidity premiums cannot be observed in the market, which makes it more difficult to observe them. Though they have to be assumed higher than the observable bid-ask spreads.

2

461

The comparison with the MA does not take into account the other options presented in the CP. So the appropriateness of Option 6 (or the respective aspect in Option 1), especially in comparison to the MA, should be re-assessed for the Approaches 1 and 2. If it is not reassessed for its purpose as a safeguard against wrong incentivization, it should be perceived as a source of prudence and its introduction for the MA should be considered to keep a level playing field in this aspect.

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2	484	A gradual activation makes sense, but it is not clear why the proposal is calibrated to be higher above 100bps.	
2	545	2.545-2.548: The former specification that the SCR should incorporate a decrease of the CCP to zero is motivated by a view that the CCP is a helping mechanism for the valuation of long term guarantees without proper foundation on the companies' asset allocation and risk situation. Considering the development the VA has taken since then, including the advised changes in design like Option 1, 4 and 5, this view has to be rejected. Therefore any calibration building on this view, like the 20% should be rejected as well and not taken into account at all (cp. EIOPAs note in 2.568). Therefore the 65% should not be noted as politically agreed and technically inadequate. We perceive it as a source of prudence to mitigate the deficiencies in the current design of the VA. As these are rectified by Approach 2 and new sources of prudence are introduced, the GAR could be increased.	
2	564	All the risks enumerated here are tackled by the options presented in 2.563 besides the fifth bullet point on earning the VA with future portfolios. Please note that the reference of a future portfolio in this context does not align with the general context of Excess of assets over liabilities (EoAoL).	
2	590	<p>We consider dynamic volatility adjustment to be consistent with overall SCR definition and sound economic risk management. Indeed, Article 101 of Solvency 2 directive defines the SCR as the loss of own funds that would be observed in a 1/200 event. Where a spread crisis to happen, it would indeed generate losses in the market value of bonds portfolios, but also strong increase in discounting rates via higher returns of generic portfolios and possibly taking into account country specific VA. Within Solvency II environment, spread risk should thus be treated as an ALM risk in the same way as interest rate risk.</p> <p>In this regard, the use of DVA should be allowed. At the moment, it is only possible via internal models. Standard formula should be modified in order to specify that spread risk should be calculated as an ALM risk.</p> <p>This new definition would offer several advantages:</p> <ul style="list-style-type: none"> <li>- solution would not materially increase complexity. Impact of spread shock on provisions would be factor based. It could be set as the product of reserve volumes time duration time a shock factor to be calibrated by EIOPA and consisted with shock applied to assets.</li> <li>- it would provide level playing field between internal model and standard formula users.</li> </ul> <p>As noted by EIOPA, SF have the possibility to not stress government bonds which is not always offered to IM users. Yet, the fact that IM users suffer from this difference does not mean spread risk should not be level playing field.</p> <ul style="list-style-type: none"> <li>- it would remove incorrect incentives and procyclicality. Indeed, at the moment, spread risk impact on balance sheet is de facto overestimated. Should spread risk materialise and bond notations be put under pressure, entities would be incentivised by exaggerated spread SCR to perform fire sales and flight to quality. This would deepen the crisis and generate systemic risk. Furthermore, entities would end up holding very low yield assets that might impair their long term equilibrium. This would also go against buy and hold strategies which should be the basis of sound risk management.</li> </ul>	
2	599	We support EIOPA's advice that the situation for the approval of the VA should be the same in all Member States.	
2	600	In Status Quo an approval by NSA seems necessary as the appropriateness of the application of the VA has to be justified. With the proposed changes to the design of the VA that incorporate adjustments for the portions that do not seem appropriate, an approval process does not seem necessary anymore.	
2	671	We support EIOPA's advice that disincentives should be solved in the VA ('at source') and then the DVA in internal models should be maintained. When the VA gives an appropriate view on the undertaking's risk situation in the valuation, the DVA is the natural consequence in the risk step. In that case a direct approach, i. e. a replication of EIOPA VA methodology, should be mandatory.	

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2	718	Applying the transitional measures is only possible, after approval from the supervisor. We agree that, the effect on the coverage ratio should be disclosed in the SFCR. The fact that a ratio without use of the transitional is below 100% and the required activities is already covered by the SII framework; especially Article 308(e). The supervisor has to control the activities of the undertakings needed to achieve compliance with the Solvency II requirements by the end of the transitional period. The identified measures of the undertaking should not be disclosed publicly. They might even contribute to a deterioration of the position of the undertaking. EIOPA claim a predominant use of the transitionals by undertakings without capital gap. This statement is questionable. Without applying all requirements resulting from expected changes of the framework the “real” capital need cannot be assessed. For life insurance undertakings with long-term interest rate guarantees the adjusted interest rate down stress will significantly affect the SCR. The treatment of LAC DT might in addition deteriorate the capital position of a number of undertakings using the transitional measures. Imposing Capital add-ons should remain a means of last resort. It might be used if it helps undertakings to achieve compliance with the SCR at the end of the transitional period.	
2	719	Agree	
2	720	Imposing Capital add-ons should remain a means of last resort. It might be used if it helps undertakings to achieve compliance with the SCR at the end of the transitional period.	
2	752	2.752-2.757: We consider that the proposals to replace the current requirement to provide an analysis of the measures restoring the compliance for the MA and VA introduce a carve-out from what the Solvency II framework is. The current reference point for supervisory intervention is when the SCR calculated with the transitional and LTG measures is breached. This proposal would introduce an additional reference level. De facto, this means that intervention could start at a coverage ratio higher than 100% of the SCR with LTG measures.	
2	758	We support EIOPA’s pieces of advice in these paragraphs.	
2	759	We support EIOPA’s pieces of advice in these paragraphs.	
2	758	2.758-2.760: We support EIOPA’s pieces of advice in these paragraphs.	
2	761	The requirement in 761 should be deleted, i. e. option 2. The VA is a technical instrument to reach an appropriate view on the undertaking’s risk situation. The policy on risk management should not focus on the VA specifically, but on the impact of spreads to the undertaking’s risk position.	
2	762	2.762: We consider that EIOPA’s proposal to create a shadow SCR that would require undertakings to demonstrate full solvency after removal of the MA/VA, a 50-year LLP and a reduction of 100 basis points in the UFR undermines key aspects of the Solvency II framework without which the functioning of the European insurance industry would be significantly jeopardised, and conveys the unintentional message to the industry that these would be movable, rather than permanent, components of the framework. Especially the view that results without VA give “the real” risk position should be eliminated wherever it occurs and has an influence. That is the case in 762 as well. Compliance with the SCR without the VA should not have any consequence at all. The LTG measures are economically justified and are designed to support the provision of long-term insurance products and facilitate long term investment. Limiting capital distributions based on the proposed scenario would counteract these aims.	

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2	764	2.764-765: We propose to remove the requirement to publicly disclose the impact of a MA/VA=zero scenario. The VA and MA are fundamental elements of the SII framework. Requiring companies to disclose the impact of a scenario in which the MA or VA would not exist conveys the unintended message to the markets that the LTG measures are in some way non-permanent. As this is not the case, the requirement to publicly disclose this information should be removed from the Solvency II framework.	
2	795	<p>The VA is a technical instrument to reach an appropriate view on the undertaking's risk situation. We suggest drawing less attention to that technical feature in the disclosure, but to focus on the undertaking's risk strategies, especially the asset strategies, and their implications. Of course, those implications include effects that are expressed by the VA, but the VA itself should not be in focus. Especially the impression of a "second version of the truth" for the results without VA should be avoided.</p> <p>Especially for the SFCR additional quantitative and qualitative comments, assessments and sensitivity analyses would make the report more complicated and might be easily misinterpreted (e.g. sensitivities!).</p> <p>In principle, we consider the existing reporting requirements as appropriate.</p> <p>We support EIOPA's proposal to extend the SFCR template as shown in annex 2.14. Apart from that, we see the existing Regulation in the Delegated Regulation, Art. 296 (f) and (g), as sufficient. Therefore, it is not necessary to give further provisions (via guideline etc.).</p> <p>Regarding the disclosure of qualitative information on the use of LTG measures, EIOPA advises to define and prescribe minimum information requirements. Special consideration should be given to the inclusion of the LTG-measures in the part of the SFCR which is addressed to policyholders.</p> <p>EIOPA holds the view that the SFCR template on the impact of the LTG measures should also show the impact on the SCR and MCR ratios as illustrated in annex 2.14. No additional derived ratios need to be included.</p>	
2	836	<p>The empirical VaR approach described presents some deficiencies:</p> <ul style="list-style-type: none"> <li>• The absence of overlapping window leads to insufficient data for a 10-year horizon based on observed data as from 1970. The other advantage of overlapping daily returns is that all possible data are taken into account including crisis while there is no dependency on the arbitrary choice of the start of the window</li> <li>• The minimum value within the relevant year to select data before extracting the VaR is introducing bias and overestimates the actual risk</li> <li>• Using the return in excess of the 10-year risk free rate allows assessing the equity return volatility taking into account the broader economic climate.</li> </ul> <p>However, to be consistent with the current standard formula, the equity return distribution should then be defined as today's 10-year risk free rate plus calibrated equity premium.</p> <p>The observed volatile results on the graphs pages 235-236 indicate that the analysis performed does not allow to conclude and might be either too aggressive (based on anniversary date missing some crises) or too conservative (based on minimum date with a clear downward bias).</p> <p>We would therefore recommend performing the analysis again with the same data based on overlapping daily returns to challenge the mentioned experienced stresses over 10 years of 74% (MSCI world TRI) or 62% (MSCI Europe TRI) based on minimum data (see para 2.957 page 260).</p>	
2	941	<p>While we recognise that duration-based equity (DBE) and long-term equity (LTE) share the same 22% calibration, it may not be appropriate to phase out DBE approvals as DBE serves a different purpose than LTE:</p> <ul style="list-style-type: none"> <li>• DBE is aimed at pension liabilities whereas LTE may cover a broader set of insurance contracts</li> <li>• DBE is based on a criterion of liability duration whereas LTE is based on a criterion of equity holding period</li> <li>• DBE is applicable to all equities within the pension portfolio whereas more eligibility restrictions apply to LTE</li> </ul> <p>Para 2.946 : w.r.t. the criterion on lower volatility for strategic participations, the holding period should also be considered even for a limited window covering the next 12 coming months in line with the one-year SCR horizon:</p> <ul style="list-style-type: none"> <li>• The concept of strategy is closely related to durable link</li> <li>• Likewise to the LTE, a written policy could reflect the intention to hold the strategic participation over a specific horizon</li> </ul> <p>Applying the beta threshold in line with the unlisted equity approach (see paras 2.866 and 2.867 pages 240-241) might not be appropriate as the conditions underlying the calibration of this linear regression might not be met resulting in a significant basis risk.</p>	

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2	963	<p>EIOPA proposes to add the following paragraph to art. 171a on long-term equity investments: “(4) Controlled intra-group equity investments shall be excluded from the sub-set of equity investments.”</p> <p>We agree that equities classified as LTE should be held over the long term and should not contain equity investments that are traded very frequently. However, we question whether the exclusion of intra-group equity investments is an adequate measure to achieve that LTE are actually held over the long term.</p> <p>Direct private equity investments and related vehicles can have characteristics of both controlled intra-group equity investments on the one hand and covering assets that are aimed to provide a return for policyholders on the other hand.</p> <p>Such intra-group investments are often compliant with the criteria of art. 171a and are aligned with the aim of having a reduced equity charge for equities that are held over the long term.</p> <p>Such vehicles may in theory be calibrated under the strategic equity sub-module, however the condition of lower volatility in paragraph (a) of art. 171 is difficult to prove in practice. In addition, this criterion of lower volatility is based on a 12 month horizon and thus does not take into account the longer investment horizon of certain intra-group equity investments. The long-term equity sub-module of art. 171a would thus be more appropriate for such controlled intra-group equities.</p>	
2	983	<p>AAE welcomes EIOPA’s decision to maintain equity dampener as it is.</p> <p>Indeed, it has proven to offer counter-cyclical effect in time of crises and should not be modified.</p> <p>Given the proven efficiency of equity dampener, we wonder whether the solution should be extended to other market drivers. A possibility could be to introduce a spread dampener. Spread shock factors could be increased when spread are low and lowered when they are high. A multiplicative factor would be applied to current shocks. This factor would be computed by EIOPA on the basis of EEA average spreads.</p> <p>This solution would offer additional counter-cyclicality and help to mitigate spread increase for entities that do not use the VA as well.</p>	
3	11	<p>3.11: As a general principle, we are in favour of common principles to measure the technical provisions under IFRS and Solvency II. We would therefore welcome a detailed analysis from EIOPA that would study the pros and cons of a single measurement of the fulfilment cash flows (best estimate + risk margin). A single measurement would ease risk management. We however agree with most of EIOPA's comments, in particular the fact that IFRS 17 and Solvency II have two different objectives. Therefore, differences (others than the technical provisions) in the balance sheet may remain.</p>	
3	38	<p>3.38: We agree with EIOPA: obligations related to paid-in premiums should be out of the scope of Article 18(3), i.e. option 2</p>	
3	46	<p>3.46: We agree with EIOPA: Identification of different parts of a contract according to Article 18(4) should be based on the rights of Article 18(3) instead of on unbundling requirements. No changes needed. Further guidance may be helpful to ensure a common understanding of the unbundling principle for contract boundaries assessment</p>	
3	60	<p>3.60-3.63: We believe that homogeneous risk groups used for the calculation of the technical provisions may well include profit-making and loss-making policies. Not only would the proposed calculation be burdensome and further stress the calculation processes within very tight deadlines but also lead to potentially inconsistent results.</p> <p>Article 34 (3) of the Delegated Regulation requires homogeneous risk groups to appropriately reflect the risk of the individual policies. To us this means that policies in the same homogeneous risk group are grouped on the basis of criteria like similar exposures especially with respect to market and underwriting risks. Article 35 of the Delegated Regulation provides guidance for life insurance obligations. Neither article 34 nor 35 of the Delegated Regulation address effects of future premiums on the technical provisions explicitly. If profitability – in the sense of a positive or negative EPIFP - is relevant for the best estimate of technical provisions or the capital requirements, it will already be considered in the HRG segmentation. Therefore, there should be no different segmentation for EPIFP.</p>	

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	61	<p>3.60-3.63: Stipulating that EPIFP should have the same sign for all policies belonging to the same homogeneous risk group would lead to homogeneous risk groups to calculate EPIFP that are different than the ones appropriate to calculate the technical provisions. It is worth noting that the general grouping of policies based on risk sensitivity is generally independent of current developments like capital market assumptions or lapse rates.</p> <p>Also, netting off positive with negative EPIFP in homogeneous risk group leads to the same total result of EPIFP as a derivation of positive and negative EPIFP separately if the assumptions for negative and positive EPIFP subgroups within a homogeneous risk group are the same which will usually be the case for different reasons. The main reason is that homogeneous risk groups should be defined in a way allowing for reasonable distinctions in assumption setting. One could claim that the sign of EPIFP (or to be more correct the level of EPIFP in relation to premium) could have an impact on lapse rates resp. paid up rates. If this was the case, it already needs to be allowed for in the best estimate assumptions per homogeneous risk group. For illustration we provide the following examples:</p> <ul style="list-style-type: none"> <li>- Homogeneous risk groups are usually defined depending on the level of guaranteed interest rates in case of saving products with guarantees. Depending on the economic scenario it is obvious that most policies enjoying the same level of guarantees will have either positive or negative EPIFP, but this does not hold true for all policies (i.e. depending on expense loadings, time to maturity etc.). In any case, the difference between the risk-free interest rate and the guarantee will be allowed for in the (dynamic) lapse assumptions.</li> <li>- Savings products with terminal dividends, also if they are generally profitable, might have a negative EPIFP at the end of their duration because in case of no premium payment the terminal dividend will be reduced which will also reduce the best estimate. Lapse assumptions are usually defined dependent on the time to maturity per policy and therefore already allow for this effect without an unnatural distinction into different homogeneous risk groups.</li> <li>- Risk products with decreasing sum insured and level premium or disability products usually have materially increasing level of EPIFP in relation to the sum or present value of future premiums towards the end of duration, which might lead to higher lapse rates. If this was observed, the best estimate lapse rates should already allow for such increases in lapse rates without an unspecific distinction in homogeneous risk groups depending on the level of EPIFP in relation to premium.</li> </ul>	
	62	<p>3.60-3.63: It should be clear now, that a definition of homogeneous risk groups in relation to the sign or level of EPIFP is not meaningful and also not required. From this it follows that a separate calculation of positive and negative EPIFP, as suggested in 3.74, does not lead to any additional meaningful results and is also not possible due to the reasoning set out above. Also it should be noted that, due to mutualisation in e.g. the German business model, the time value of the guarantees is only derived for the portfolio as a whole and the allocation of the time value to the homogeneous risk groups is an approximation. The quality of this approximation will not increase with an increasing number of homogeneous risk groups.</p> <p>However not only is EPIFP is very much dependent on the risk profile of policies but also on the current state (capital markets, assets held, assumptions for profit sharing, etc). To illustrate this, consider policies with guaranteed interest rates. For the valuation of the technical provisions at December 31st, 2018 EPIFP may have been positive for all policies in one homogeneous risk group. As of September 30th, 2019 the same homogeneous risk group may contain policies with positive or negative EPIFP depending on the remaining durations of the policies. Especially for policies with collective profit-sharing mechanism that require stochastic Monte Carlo simulations for the valuation of the technical provisions, it is virtually impossible to precisely derive homogeneous risk groups that are homogeneous with respect to the sign of EPIFP.</p>	
3	70	<p><a href="#">We concur with the advice.</a></p>	
3	71	<p>EIOPA advises to amend the third paragraph of Article 18(3) of the Delegated Regulation. We concur with the advice.</p>	

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3	72	<p>EIOPA advises to amend the third paragraph of the Article 18(3) of the Delegated Regulation to guarantee the level playing field for the application of the underlying exception. EIOPA proposes to limit the exception to situations where a contractual/legal constraint exists. We believe that, at the revision date, the main question remains the right to amend the premiums or benefits at portfolio level. Introducing the right to perform and individual risk reassessment could mean an unnecessary burden for the clients involved. The current text, which states that assessment cannot be repeated, leaves more room for the perspectives of both the undertaking and the client. Examples of how the article should be interpreted would be enough, given the fact that most undertakings have no doubts on the right interpretation of the third paragraph of Article 18(3).</p>	
3	73	<p>3.73-3.76: We don't understand the information requested in Q3.1 and EIOPA's concern about new burdensome calculation and appropriateness of homogeneous risk groups on one side and on the other side the piece of advice set in 3.73 until 3.76.</p> <p>Before introducing "profit or loss" in Article 1, Article 260(2), 260(4) and adding (5) and (6) in the Delegated Regulation, we would expect EIOPA to consider the information requested. Nevertheless, we agree that information on loss-making and profit-making policies is valuable, but we do not endorse any plans to incorporate this information in the Delegated Regulation.</p> <p>To adequately assess the effects of future premiums on technical provisions or own funds it is strictly necessary to be able to separate liabilities with respect to accrued vs. future premiums. Article 260 (2) specifies that future premiums shall not be taken into account "regardless of the legal or contractual rights of the policyholder to discontinue the policy". If the policyholder has no such legal or contractual right, the change in benefits related to the discontinuance of premium payments is not well defined. We hence propose to restrict the requirements to legal or contractual rights of the policyholder.</p> <p>Up to this consultation (cf. 4.130) we have interpreted Article 260 of the Delegated Regulation in the sense that expected profits in total may be positive or negative. It may be noted that there is no validation rule regarding the sign of EPIFP in the QRT template S.23.01. With the interpretation of 4.130 EPIFP may well be greater than the overall reconciliation reserve.</p> <p>In 3.61 EIOPA states that it seems reasonable to expect that the concept of EPIFP considers the whole impact on own funds of future premiums, and not only part of it. A different treatment of positive and negative EPIFP would contradict this concept.</p> <p>The expected exercise of policyholder options is already reflected in the technical provisions. In addition to the best-estimate assumptions there are specific risk submodules to account for possible changes in lapse rates.</p> <p>Overall the SCR of the standard formula takes into account changes in basic own funds due to changes in EPIFP. We believe own funds have to be seen in relation to the SCR. Thus the notion of EPIFP in our view does not provide any additional insights as no SCR calculation generally excluding EPIFP is intended.</p> <p>3.74: It remains unclear whether it is intended to require companies to report expected profits and/or losses included in future premiums separately, although 4.133 suggests this is the case. Overall it seems arbitrary to restrict the offsetting of loss-making policies and profit-making policies to homogeneous risk groups while potential benefits for NSAs are not easily identified. Furthermore there are potential interdependencies between different homogeneous risk groups if future discretionary bonus is determined on the basis of the financial situation of the undertaking as a whole (depending on local regulation for profit sharing mechanisms).</p>	
3	76	<p>The point on unit-linked fees being similar to EPIFP is a fair one, but some practical guidance here may be useful. Unit-linked fees are already captured in the BEL, which is presented as a negative liability for many unit-linked contracts. Fees are an inherent component of the contract – if the fees cease, this is as a result of the fund no longer being in place and the policy no longer existing. Also, unit-linked contracts will have future premiums, where premiums generate future fee income. How should these be disentangled? Thus this requirement may lead to some divergent practices without clear guidance/examples.</p> <p>3.76: The term "profits or losses from servicing and management of funds" needs to be clearly defined. There are different sources of these profits or losses that may be considered with respect to unit-linked policies:</p> <ul style="list-style-type: none"> <li>• contractual management fees to the policyholder that decrease the funds' performance or are directly debited from the reserve</li> <li>• contractual management fees to the policyholder that reduce the saving premium and are already included in EPIFP</li> </ul> <p>kickback provisions from investment funds</p>	

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3	85	<p>Future Management Actions</p> <p>The AAE supports the definition (3.85) provided by EIOPA. The AAE note that there is no reference to the notion of "business plan". We welcome this as future management actions should not be limited to the duration of the business plan.</p> <p>In addition, we concur with the view expressed at A.212 that "the comprehensive future management actions plan should be approved [by the AMSB] in a single document, and if additional future management actions are to be included, the full comprehensive plan should be reviewed."</p>	
3	103	We concur with EIOPA's piece of advice.	
3	120	<p>We are favourable to amending the delegated regulation to clarify that dynamic policyholder behaviours resulting from optionality embedded in distributed products should be modelled even in case of a lack of data (3.120). We recommend that any such guidance be subject to public consultation.</p> <p>However, the AAE is not in favour of the introduction of a simplified and/or a generic modelling for lapses since it would not be effective to capture contract or country specificities.</p> <p>- We would stress the necessity for consistency between the modelling of customer behaviour and management actions. For example, it should be possible to take into account management actions as a result of customer behaviour. We would also stress the necessity to use stochastic models and ESGs to compute Best Estimate for liabilities with options and guarantees.</p>	
3	174	We agree. It is indeed inconsistent to allow an MA in the BE and not in the RM. Both are components of one and the same transfer value. If you allow MA in the BE, you should allow it in the RM.	
3	185	In the case of a dynamic VA, there is an adjustment in the spread risk.	
3	190	The 'increased consistency' point resembles point 3.174 and could be made more explicit in the accompanying text. However, taking into account the pros and cons indicated by EIOPA, we concur with the advice to maintain the current approach for the MA and VA in the RM calculation.	
3	204	The RM is sensitive to change in risk free rates. In particular, the current low interest phase should be considered regarding the level of Cost of Capital. A quantitative impact study could be performed, ideally through a market impact analysis at the appropriate level of granularity, allowing for all possible modifications.	
3	205	<p>3.205f: We refer to the AAE Commentary paper "A Review of the Design of the Solvency II Risk Margin", published in December 2019: (<a href="https://actuary.eu/aae-publishes-commentary-paper-review-of-the-design-of-the-solvency-ii-risk-margin/">https://actuary.eu/aae-publishes-commentary-paper-review-of-the-design-of-the-solvency-ii-risk-margin/</a>)</p> <p>This comprehensive paper aims at reviewing the current design of the risk margin and making suggestions for possible modifications. Chapter 7 entirely deals with the cost of capital rate and assesses its structure and size.</p>	
4	112	<p>We assume it is reasonable that Double Leverage (where the leverage ratio is in excess of 100%) will be assessed at the group level by the group supervisor.</p> <p>Since, at the entity level, this would have meant excessive burden on individual entities.</p>	

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5	1	<p>Interest rate down risk</p> <p>First, we consider that the current approach with no decrease of negative interest rates appears to be inadequate to measure interest risk. Given the back-testing results showed by EIOPA, the shifted approach seems to be relevant.</p> <p>However, we draw EIOPA's attention to the overall consistency and non-procyclicality of Solvency II Framework. In fact, concerning downward shock on interest rates, we may consider:</p> <ul style="list-style-type: none"> <li>- Firstly: interest rate risk is already taken into account via Best Estimate calculations: when risk-free interest rates decrease, the time value of Options and Guarantees rises.</li> <li>- Secondly: the shifted approach will lead to an important increase of Solvency II Balance Sheet's sensitivity to interest rate risk. Thus, it could dangerously contribute to increase systemic risk.</li> <li>- Thirdly: Current interest rates are affected by ECB's QE - policy (see e.g. "The yield curve and monetary policy" by Philip R. Lane) and are therefore to some extent political in nature. This should be considered when calibrating an adequate downward stress.</li> </ul> <p>The proposed relative shift approach produces shocks that are risk sensitive. However we disagree with the proposal to stress the extrapolated part as well. This sets inconsistent incentives to the insurance industry concerning the management of their interest rate risk. The liquid part of the interest rate structure should be stressed and then the extrapolation after the LLP should be used as would be the case if the stress is experienced in reality. Please see also our comments to Q2.1. concerning the LLP.</p>	
5	26	<p>In "EIOPA's second set of advice to the European Commission on specific items in the Solvency II Delegated Regulation" (EIOPA-BoS-18/075) EIOPA recognized in para. 673 that there is an "inconsistency between the valuation of own funds and the risk measurement". We agree with this assessment and would like to repeat and underline the following arguments that were made in the corresponding consultation process:</p> <ul style="list-style-type: none"> <li>• The extrapolation of the stressed risk-free curves is the only way to derive consistent, risk-sensitive and economically sound stressed risk-free curves in the illiquid part of term structure and the only way to compute the true loss in basic own funds.</li> <li>• The current approach leads to an inconsistency between the risk measurement of interest rate risk and the valuation of own funds where an extrapolated risk-free curve is used. This inconsistency has the undesirable implication that the stressed risk-free curve can never become a realized risk-free curve. Accordingly, the inconsistency might lead to contradictory steering impulses with regards to own funds stabilization and interest rate risk hedging.</li> <li>• Stressing the UFR is not in line with interest rate theory (c.f. work of Professor Keller-Ressel at TU Dresden). A significant stress of a long-term rate could only be justified economically by a massive structural change in the economy. Capturing such structural changes would go beyond the scope of the standard formula.</li> </ul> <p><u>We suggest that EIOPA review the current approach (i.e. extrapolate the stressed risk-free curves to constant (non-stressed) UFR) when revising the</u></p>	
5	73	<p>We agree that overall, spread risk is appropriate and does not require a rework. As noted before, we would still recommend two evolutions:</p> <ul style="list-style-type: none"> <li>- standard formula should allow for an asset/liability calculation rather than a pure asset one, and thus include dynamic VA (we refer to our related analysis in section 2.5)</li> <li>- a dampener factor should be introduced in order to mitigate the impact of spread crisis and avoid incorrect incentives, in particular regarding entities that do not use the VA (please refer to our comment regarding section 2.10)</li> </ul> <p>The discussion on whether to reduce the risk capital charge for spread risk (once bonds are classified as long-term investments) should be considered together with the discussion on whether to allow for a dynamic VA for the standard formula.</p>	

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5	107	<p>In our opinion, property risk differs from other risk in the sense that shock factors are much more entity specific.</p> <p>- Portfolios are much more geographically concentrated than for other asset classes - insurers typically invest in bonds and shares from all European markets. The use of a pan-European index thus appears justified.</p> <p>This is not true for real estate where insurers' investments typically are located in their own countries. Yet, volatility strongly differs between countries.</p> <p>We believe this could be taken into account by setting country-specific property shocks. To avoid unneeded complexity, an insurer that has invested more than 90% of its portfolio into only one country should be allowed to use this country parameter to 100% of the portfolio</p> <p>- Further refinement could be introduced by distinguishing between own use, retail and commercial property. This would have to be balanced however with complexity</p> <p>concerning EIOPA's policy issues analysis: Although EIOPA opts for continuity in current approach to measure the capital requirement for property risk, we wish to remark we support adoption of policy option 8., i.e. setting two different shocks, one for properties located in certain European countries and another for properties located elsewhere, since volatility of property prices behaves quite differently in each of these two groups of countries.</p> <p>However, we do stress that additional research and review need to be performed and planned to guarantee validity of the current approach.</p>	
5	153	<p>Market Correlation Matrix - Economic arguments and simplification point of view</p> <p>Firstly, we consider that a unique correlation matrix within market risk module would :</p> <p>- Simplify the calculations made under the Standard Formula;</p> <p>- Avoid non-linearity issues in case of change of the market correlation matrix</p> <p>Secondly, we consider, from an economic point of view, that recent monetary policies put into question the idea that in case of economic downturn, interest rates will decrease:</p> <p>See graphic attached</p>	
5	153		
5	5	We agree with EIOPA's piece of advice.	
5	6	We agree with EIOPA's piece of advice.	
5	9	We agree with EIOPA's piece of advice.	
5	10	We agree with EIOPA's piece of advice.	

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7	2	<p>On review of the proposed changes to the RSR layout in Annex 7.1, we believe the changes will generally be well received, to the extent to which these changes remove any duplication between the various reports submitted to the NSA.</p> <p>However, as the reports submitted to NSAs can vary by member state and/or size of the entity, this may create differences in the level of information reported in RSRs across the market. For example, for smaller companies in Ireland, the full ORSA Report is not generally submitted to the CBI. In such a case, would the RSR still need to contain the additional level of detail if the entire ORSA is not actually submitted to the NSA?</p> <p>We understand that EIOPA's proposal to remove some requirements from SFCR and move them to RSR gives rise to a necessary streamlining of the new RSR.</p> <p>We welcome EIOPA's proposal to improve the structure and the content of the RSR as:</p> <ul style="list-style-type: none"> <li>- this will eliminate redundancies within RSR, between RSR and QRT, between RSR and SFCR and between RSR and ORSA. However, we understand that information covered by the ORSA report will still be due if ORSA is submitted during a certain time window (more than 6 months before and not due in the 3 months after the RSR). This constraint may be a concern for undertakings that usually submit their ORSA within this time frame as they will either have to change their process and ORSA submission dates or include information from their previous ORSA anyway (as updating ORSA can be quite burdensome, we don't believe undertakings will perform it for calendar reasons especially given the tight deadlines for submitting SFCR and RSR). For this reason, this constraint should be removed.</li> <li>- the proposal to report only on material changes in the governance part of the RSR will contribute to a more focused and synthetic document, easier to update, to read and validate (from an AMSB perspective). The minimum frequency for the full information is still to be discussed and we suggest that it be proportionate for instance depending on the frequency of RSR submission.</li> <li>- the additional guidance that will be provided (through level 2 or level 3 texts) for each of the current requirement for which EIOPA considers that the information currently provided by undertakings is too general will result in a more qualitative document and will ensure a level playing field.</li> </ul>	
7	53	<p>S.05.01 - Premiums, claims and expenses</p> <p>We support EIOPA's proposal to delete QRT S.05.01 from Group-scope, as – for international groups – especially the shift from statutory GAAP (HGB) on Solo-level to IFRS on group-level the reporting leads to confusion from addressee's perspective.</p> <p>7.58: Premiums, claims and expenses - by country</p> <p>EIOPA proposes for Solo-entities to merge all QRTs containing cross-border information within one new QRT-format, while deleting the former ones. On Solo-level QRT S.05.02 will therefore be deleted from scope. It should be made sure that this QRT is not going to be required on group-level.</p>	
7	121	<p>EIOPA proposes to keep the group SFCR mostly unchanged, while Solo SFCR is going to be deeply restructured in terms of content and structure (e.g. split in summary and "rest"; focus on standardized figures with less qualitative descriptions). We see it critical to promote two different SFCR-formats:</p> <ul style="list-style-type: none"> <li>- from the point of view of the SFCR's addressees,</li> <li>- from a procedural / governance perspective</li> </ul> <p>The future SFCR for solo and group should follow an identical structure and aim at the same targets/audience.</p>	
7	137	<p>Auditing duty:</p> <p>EIOPA promotes the codification of a minimum duty on auditing, codifying the duty to audit the SII-balance sheet. We recognise that some member states already comply with this demand (e.g. German Supervisory Law requires in section 35 the auditing of the solvency statement submitted to supervisor). We would not support an extension of the scope of such an audit.</p>	
7	157	We fully support the idea to extend the deadlines for submission for two weeks.	

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7	159	<p>Single RSR: According to the option of preparing a “single SFCR” EIOPA discusses to provide the option to prepare a single RSR, too. We analysed this option, yet – in the current framework – we don’t see the benefit from it in terms of significant reduction of work. From our perspective, requirements should be changed in order to focus on the presentation of the group with only relevant specifics of subsidiary entities considered.</p> <p>According to article 368 DA the single SFCR has to be reported within the solo-deadlines. Assuming the same to be intended for the single RSR we evaluate these deadlines to be extremely challenging; in order to promote the option of a single RSR (same with SFCR), and to allow more entities for making use of it we propose to apply group-deadlines.</p>	
8	44	<p>In respect of the proposed changes to the thresholds for the application of Solvency II to undertakings per Article 4 of the Directive, we have the following comments:</p> <p>- Given the nature of the various different cashflows included in the technical provisions, the technical provisions can be negative and volatile for small undertakings and are, therefore, not always a good threshold to use.</p> <p>Giving NSAs the option to use premium thresholds will further reduce harmonisation across the market and may introduce significant differences in the level of premium thresholds across different member states.</p> <p>8.44, 8.45: It is unclear what happens to companies that become exempt from Solvency II following the proposed change. Do they immediately revert to whatever regime applies to non-Solvency II entities in that particular country? This could lead to extra costs in changing methodology, assumptions, reporting etc. Perhaps there should be a transition period or companies that become exempt from Solvency II could be allowed to continue to use Solvency II metrics whilst being exempt from other aspects (e.g. QRTs, ORSA, policies, some functions).</p> <p>Allowing local NSAs to select the premium measure used in determining exemption from Solvency II seems contrary to Solvency II harmonisation aims. In theory, two identical companies could end up being treated very differently in different territories with one in scope of Solvency II and the other exempt. This could create regulatory arbitrage opportunities and disadvantage some countries when it comes to serving as a base for insurance.</p>	
8	123	<p>In respect of proportionality under Pillar 2, the proposals appear reasonable and will likely be welcomed by smaller undertakings. In particular, the reduced frequency of policy review and the combination of some key functions and the individuals responsible for these is welcomed.</p> <p>8.123f: Key Functions: The preferred policy options regarding key functions listed on pages 495-497 are very high-level and vague and it is difficult to see how proportionally here could be enforced. Without more detail we would prefer option 1.</p>	
8	164	<p>ORSA: We prefer maintaining the current requirements especially bearing in mind the importance of involving the organisation etc. in the process. This is also noted in 8.164.</p> <p>With regard to the ORSA frequency option 1 is also the preferred option. If the ORSA process is well designed and integrated within the organization there should not be the need to relieve the burden as described in 8.165.</p> <p>8.164: Feedback from the national regulator to the ORSA process seems to vary considerably (for example: Swedish regulator vs. Danish) – a more coordinated approach would be appreciated.</p> <p>We do note, however, that we do not expect that the proposed changes to the ORSA will have a significant impact; the assessment of the deviation of the risk profile from the SCR calculation can be refreshed easily each year if there are no significant changes during the year, and the assessment is still required if there is a change in risk profile in any case.</p>	
8	174	We welcome the simplification proposed by EIOPA regarding the combination of key functions	

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9	44	As mentioned in 9.44 the definition of groups under Solvency II is firstly based on accounting provisions. We would like to highlight the fact that there seems to be an inconsistency between the Solvency II directive and the Commission Delegated Regulation (EU) 2015/35. The Solvency II directive refers to accounting provisions made by the Consolidated accounts Directive (83/349/EEC), however the Commission Delegated Regulation (EU) 2015/35 refers to international accounting standards adopted by the Commission in accordance with Regulation (EC) No 1606/2002. We propose to consider the definitions used by the IFRSs when clarifying/amending the definition of “group”, “dominant Influence” and the scope of the group supervision, if IFRS is used for the consolidated group statements. If clarifications or amendments on the scope of the group are required, we recommend clarifying/amending Article 335 “Method 1: determination of consolidated data” (Commission Delegated Regulation (EU) 2015/35). Irrespective thereof, we think that Article 335 (Commission Delegated Regulation (EU) 2015/35) relies on definitions like “ancillary service undertakings” (Article 1 No. 53 Commission Delegated Regulation (EU) 2015/35) that are not well defined. For example: is a company that owns a property in all circumstances an ancillary service undertaking, with no regard to whether the property is an office space for own use or a pure investment property (residential housing, hotel etc.)? We propose to delete “owning” in the definition, so that pure investment property companies are not considered “ancillary service undertakings”.	
9	46	9.46-9.48 Policy Issue 1– Article 212 of the Solvency II Directive and identification of groups: We welcome amendments to Article 212 to extend the definition of a group to undertakings which are strongly linked to each other. The current Articles 212(1)(c)(i) and (ii) show a lack of clarity on how companies should be treated which are managed on a unified basis (“centralised coordination”) although certain criteria are not met (i.e. no capital ties or no dominant influence of one company) should be treated. We agree that further guidelines are needed to determine the undertaking responsible for the group. Articles 212(1)(c) and 212(2) should be aligned with respect to a dominant influence.	
	49	9.49: We acknowledge the necessity to further clarify how to apply group supervision to the specific case mentioned. We agree that it should be ensured that the NSA exercises supervision in a proper way. However, the structuring of groups should remain a management decision. In general, supervisory authorities should not be empowered to force groups to restructure themselves for the sole purpose of supervision. Especially the requirement to establish a EU-holding company for non-equivalent third countries may be overly burdensome for some groups. The NSA should carefully assess the group's specific situation and agree on a practical approach with the relevant bodies.	
9	50	9.50:Policy Issue 3: Scope of groups We welcome further clarification and amendments as proposed by EIOPA	
	67	Policy Issue 1: Definition of a Holding Company We welcome further clarification on the terms “exclusively” and “mainly” in Article 212(2)(f) to determine an Insurance Holding Company. We recommend prescribing “consolidated” indicators (such as x% of consolidated balance sheet) with limited room for interpretation.	
	68	Policy Issue 2: Article 214(1) of the Solvency II Directive and powers over holdings. We welcome the rewording of Article 214(1) to ensure that group supervision can be applied to the top insurance holding company. The enforcement measures mentioned against insurance holding should coincide with the general power and measures of the group supervisory body.	
9	89	9.89-9.90: Policy Issue 1 -Different practices related to the exclusion of undertakings from the scope of group which can lead to complete absence of group supervision or application of group supervision at a lower / intermediate level in the group We welcome further guidance on the exclusion of companies from group supervision. The stated overall principles are reasonable and should ensure a consistent application of Article 214(2) across the different NSAs	

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9	91	9.91: Policy Issue 2 - Further clarity on "negligible interest" in order to achieve the objectives of group supervision (as laid down in Article 214(2)(b)) We acknowledge the necessity to amend Article 214(2)(b) which refers to the condition "negligible interest" when deciding on the exclusion of an undertaking from group supervision. We agree that "negligible interest" with respect to achieving the objectives of group supervision should be justified by additional criteria such as size, impact on group solvency, etc.	
9	96	In August 2019 EIOPA's deadline for "Consultation on technical standards on the reporting of intra-group transactions and risk concentration for financial conglomerates" ended. EIOPA should avoid divergence of regulations for financial conglomerates and the SII regulations.	
9	123	9.123 and 9.124: Solvency II is an insurance supervision regime; recital 109 states that supervisors should be able to supervise intra-group transactions that affect the financial position of insurance and reinsurance undertakings. Monitoring of IGTs between two non-insurers of the group is therefore not required.	
9	101	9.101: Due to the existing reporting and publication obligations, EIOPA already seems to have all the information necessary to supervise the IGT.	
9	159	9.159f: We recommend the implementation of option 3, but with the important extension, that intra-group transactions should be eliminated in the determination of Solo-SCRs. Otherwise e.g. for IHC/MFHC which hold insurance subsidiaries, there would be a double-counting of risks of insurance subsidiaries which would cause deterioration of the allocation of contribution to Group SCR among insurance subsidiaries.	
9	165	9.165: Simply calculating notional SCR for IHC would lead to results which are economically incorrect, as there is a potential double counting of risks in the subsidiary of the IHC and the IHC itself. Therefore, the equity stress on the subsidiaries must be excluded in any notional SCR calculation. In most cases this will result in a notional SCR that is (nearly) equal to zero, unless there are material risks that directly affect the holding company (e.g. investments different to subsidiaries).  For the purposes of the assessment of the availability of own funds according to Article 330(5), it should be possible to take into account the contribution a IHC has to the Group Solvency Capital Requirement, provided that there is no double counting with the risk of its subsidiaries. Otherwise the same risk could be used twice to include e.g. subordinated debt on the level of the subsidiary and the holding company.	
9	185	9.185 :( Article 229 – Proxy Methods): EIOPA's advice to introduce a simplified proxy method based on the equity risk as a fall-back solution is acceptable. The cap on OF regarding OF in excess of the SCR as non-available is a valid incentive to provide more accurate data. Subject to materiality thresholds (e.g. defined by the commission, EIOPA or the group supervisor), groups (both using method 1 or method 2 or a combination), should be able to use "the Solvency Capital Requirement and the own funds eligible to satisfy that requirement as laid down by the third country" for related/ subsidiary (re-)insurers in third countries. This should not be subject to prior regulatory approval; otherwise Group Solvency Calculation should follow Article 335(d), 336(b).  This would allow for a simple approach for non-material subsidiaries, that at the same time still guarantees risk sensitivity and adequacy due to the equivalence requirement	

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9	293	9.203: Calculation of Group solvency – scope of Method 2: We agree with the principle that the regulatory framework should clarify the scope of undertakings to be included under method 2 and their treatment to ensure a consistent treatment across methods (same scope of entities under all methods) and across member states.	
9	228	9.228f: Partial Internal Model (PIM) and Integration Techniques: We agree with the principle of additional clarity on the integration techniques for PIMs at group level. There should be a clear framework to enable groups / undertakings to demonstrate the appropriateness of integration technique 1 to their specific cases, to ensure that there is foreseeability and consistency of approach in the regulatory assessment of such demonstrations.	
9	320	It is unclear what “types of losses” Art. 330 (1) (a) of the Delegated Regulation is referring to: Is it a solo solvency deficiency under Solvency II, an accounting loss and/or a liquidity gap? A clarification would be appreciated in the light of availability assessment procedures.	
9	325	We disagree with the additional requirement for the ceding company to meet, after asset extraction, tiering limits relative to the solo SCR, since this would impose the assumption that the group would be deprived from its ability to recalibrate the capital allocation within the group in the scenario that a loss emerging in a group company is covered by assets extracted from the company at hand.	
9	329	The variable on the left-hand side of the formula should be indexed with “i”. It should be pointed out that the overestimation of the contribution only occurs when the risks in the IHC are actually different risks than in its subsidiaries. In almost all cases, the risks in the IHC stem from its subsidiaries. A full notional SCR would thus lead to a wrong double counting of risks, leading to an underestimation of the contribution of all other entities in the overall group (see also comment to 9.169). Another way to fix this issue is to allow a higher contribution of the entities of the group than 100%. For example in group G with 2 identical intermediate holding companies [IHC1, IHC2], each consisting of one insurance subsidiary only [both identical, S1A,S2A, all risks are in S1A, S2A; SCR(G) = 100, SCR(S1A)=SCR(S2A)=50, EOF(S1A)=EOF(S2A)=50 ], obviously the two holding companies have 50% of the risk in the group, and SH1 and SH2 have 50% each as well, summing up to 200%. When the sum is restricted to 100% (or when a notional SCR for IHC1+IHC2 for the purpose of Article 330(6)(b) is included that covers the overall risks from S1A, S2A; SCR(IH1)=SCR(IH2)=50), we end up in a situation where the group might not cover its SCR, even though all its subsidiaries have a Solvency Ratio of 100%, when only some part is not considered transferable.	
9	351	Note that the SCR of holding companies includes SCR resulting from participations in other group companies. This implies a double-counting of SCRs in the formula. This double-counting may be avoided by considering adjusted solo SCRs that do not include SCRs relating to intra-group transactions. Note that the same issue arises if an insurance company in the group holds participations in other insurance companies in the group.	
9	352	Assuming that an ancillary service undertaking provides predominantly group-internal services (e.g. administration services to group companies), treating the service company like an insurance company in the group consolidation would provide more transparency for the group risk assessment.	

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9	356	<p>We disagree with the classification of the EPIFP as a non-available own fund item:</p> <ul style="list-style-type: none"> <li>- The amount of the EPIFP is part of the expected overall profits of the corresponding portfolio (typically denoted as Present Value of Future Profits (PVFP)) and as such is not a separate item of the reconciliation reserve, in general.</li> <li>- For the purpose of the group consolidation exercise, the funds corresponding to the PVFP are deemed to be unconditionally distributable and available at group level without any restriction. This holds also for the EPIFP which is part of the PVFP in terms of the underlying amount.</li> <li>- It is uncommon to consider the EPIFP separately from the PVFP and identify them as a separate sub-item of the reconciliation reserve, since scheduled future premiums are a key component of insurance contracts and therefore included in the PVFP.</li> <li>- The SCR also reflects risks resulting from future premiums. Therefore, own funds should include the corresponding profits without any restrictions on availability.</li> </ul> <p>The fact that future premiums are not received within 9 months should have no negative impact on the availability assessment of the EPIFP (treatment analogous to PVFP).</p>	
9	357	We agree with the proposal to leave Art. 330 (5) unchanged since it already allows for adjustments under specific circumstances.	
9	358	We agree with the need for clarification on the undertakings to be included in the formula. This holds for both, holding companies and subsidiary ancillary service undertakings. However, it should be possible to apply the principle of proportionality when materiality thresholds are met.	
9	359	We disagree with the proposal to regard the transitional measures as non-available on group level. The transitional measures were introduced in the course of the Omnibus II deliberations as applicable on solo and group level. There is no need to change this implicitly now by considering non-availability on group level.	
9	363	9.363: If the solo SCR of a consolidated ancillary service undertaking is required to be allowed for in the group solvency calculation (cf. 9.3.4), Art. 330(4)(b) of the Delegated Regulation (DR) should be revised by, e.g., harmonizing its approach with the one given in Art. 330(4)(a) DR.	
9	375	<p>We assume that row 4 of the last table should read “Contrib” and not “SCRdiv” (cf. formula in 9.329) – or an adjustment vice versa.</p> <p>For alternative 1.c, an amended version of the calculation using a proportional approach may reflect that the contribution to the group SCR is also partially covered by external subordinated debt:</p> <ul style="list-style-type: none"> <li>- split of eligible own funds (net of IGT): 14 minority UT1, 56 majority UT1, 20 external T2; total 90.</li> <li>- proportional coverage of contribution to group SCR (based on proportion of 50/90): 8 minority UT1, 31 majority UT1, 11 external T2.</li> <li>- resulting split of excess over contribution to group SCR: 6 minority UT1, 25 majority UT1, 9 external T2.</li> <li>- minority interest deduction (direct computation): <math>6 = 20\% \times \max[0; 70 - 70/90 \times 50]</math>. This is higher than shown in 1.c and lower than 1.b.</li> </ul> <p>This new suggested proportional approach does not apply any own funds ‘stacking’ to cover the contribution to the group SCR (cf. 9.324); it can be classified between 1.b and 1.c; see also Q9.7.</p>	
9	380	We agree that there is need for clarification	
9	381	We agree that the calculations should be based on Solvency II valuation.	
9	399	We reject the EIOPA-recommended extension of the group of companies contributing to the minimum amount of consolidated group Solvency Capital Requirement. Thus, the value would be calculated only for the purpose of determining the minimum amount of the consolidated group Solvency Capital Requirement. Moreover, the extension of the circle of companies does not seem to create any supervisory added value, as the consequences for non-compliance with the MCR (revocation of business) for holdings cannot be applied because they do not write insurance business.	

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9	440	<p>- EIOPA's recommendation includes no reference to the Directive (EU) 2016/2341 (so-called IORP II Directive). Recital 77 of Directive 2016/2341 clearly states that for IORPs a Solvency II regime is currently not desired.</p> <p>- Definition of materiality and practicability regarding the inclusion of Other Financial Sectors (OFS) are missing. If OFS own funds should be allocated into relevant Solvency II tiers (only if the own funds are material) a reference to the Directive (EU) 2016/234 should be amended, also regarding the adaptation of Article 68(5) in the Delegated regulation.</p> <p>We agree with EIOPA's recommendation, that the own funds items of a related OFS entity in excess of the sectoral capital requirements should only be taken into account when calculating group solvency insofar the own fund items can be made available to absorb losses stemming from insurance and insurance undertakings within the group.</p>	
9	464	9.464: We agree with EIOPA's recommendation that related undertakings which are credit institutions, investment firm or financial institution should be included in accordance with sectoral rules in the group solvency calculation.	
9	486	<p>9.486: The group governance requirements of Solvency II should respect the (restricted) scope of Solvency II and should not intervene with other supervisory regimes like banks or asset management (in general: OFS). The wording in 486 does not seem to consider these restrictions from OFS.</p> <p>9.490: The system of group governance should clearly focus on the group perimeter of control. In case of non-controlled participations (NCPs, i.e. less than 50% participation and hence, no control) the system of group governance does not include these NCPs. How should a minority shareholder request to pose binding group requirements to a NCP which he does not control?</p>	
9	499	<p>9.499-9.500: In the fourth bullet point, again (as in paragraph 486) the scope of group governance is extended beyond Solvency II to e.g. OFS entities. We regard this as overstretching the supervisory mandate of Solvency II.</p> <p>In the sixth bullet, in the second sentence it says "The ultimate parent undertaking shall keep at all times a degree of monitoring of all its entities including non-regulated entities..." Again as in paragraph 490, we regard the extension of group governance and group monitoring to entities not controlled by the group as too far-reaching and suggest that this requirement be limited to controlled entities.</p> <p>In the sixth bullet, in the third sentence says: "Additional supervisory requirements could be needed to avoid conflict of interest when group control functions also provide support to local entities." Although we acknowledge that the special situation of a person being simultaneously group key function holder and solo key function holder requires attention to avoid conflict of interest as described in paragraph 9.4483, we regard the current wording of additional supervisory requirements as much too far-reaching and the condition when these requirements need to be fulfilled as much too weak ("support local entities"): What should group functions do if not also supporting local entities?</p> <p>To encourage an efficient and group-consistent system of governance and execution of key functions across insurance groups, a much less onerous action ladder and a higher intervention point should be considered:</p> <p>-instead of additional supervisory requirements: e.g. direct reporting line to group AMSB and to solo AMSB, reporting double execution of key functions on solo and group level to compliance and internal audit functions on solo and group level</p> <p>- instead of "when group control functions also provide support to local entities": simultaneous execution of key functions on solo and group level; requests from AMSB, internal audit function or compliance function on solo level to resolve a conflict of interest between solo and group function.</p> <p>In the tenth bullet point, a joint participation between two different groups is discussed. The term joint-participation is not defined. We agree that in the special case of a 50:50 participation (joint venture) the suggested requirements are useful to avoid a specific area of supervisory ambiguity. We disagree if these suggested requirements would also apply to two NCP-participations both below 50%. If an entity A is not controlled by another entity B, the entity B cannot impose its own group requirements to A. This would undermine the shareholder interests of the other shareholders of A.</p>	
11	106	<p>11.106-11.108: As stated in 11.100, according to the prudent person principle (PPP) undertakings shall only invest in assets and instruments whose risks the undertaking concerned can properly identify, measure, monitor, manage, control and report.</p> <p>In our opinion, expanding the PPP to encompass macroprudential issues is clearly beyond the scope of undertaking's behaviour, i.e. undertakings do not have realistic chances to include macroprudential concerns in their investment policies.</p> <p>So, we do not consider neither appropriate nor realistic to expand this way the PPP. What's more, NSAs consideration of macroprudential concerns when assessing undertakings' compliance with the PPP might clearly hamper the existence of a level playing field.</p>	
A	92	<p>Treatment of unrated bonds: exclusion from CQS allocation (alternative c) is our preferred option since:</p> <ul style="list-style-type: none"> <li>• Alternative a) cannot be applied to all types of unrated bonds (e.g. junior debt, bullet loans, mortgage loans) and is more burdensome</li> <li>• Alternative b) would be excessively prudent. E.g. unrated SME loans are generally allocated to BBB or BB ratings, which is also approximately the calibration under the SCR spread (cf. article 176§4 Delegated Regulation). An allocation to AAA may severely underestimate the illiquidity premiums of unrated assets.</li> </ul>	

