Contribution ID: 76ba5ca9-e1dc-4f56-b8ac-e381fc2db082
Date: 20/10/2020 13:04:42

Public consultation on the review of prudential rules for insurance and reinsurance companies (Solvency II)

Fields marked with * are mandatory.

Introduction

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Insurance companies[1] **play an important economic and social role**. Indeed, insurance is provided for many events of human life (sickness, car accidents, fire damage, death, etc.) but also for potential liabilities as regards third parties such as medical liability. Insurers also play an important role in non-bank intermediation, for instance by channelling household savings into the financial markets and into the real economy.

The core business model of insurance companies is very specific. Insurers collect premiums from clients (referred to as "policyholders") up-front but are only obliged to make payments if a predefined adverse event occurs at a later stage[2]. The insurance sector is also prone to information asymmetry. In general, policyholders are less aware than the insurance company about the own ability of the latter to fulfil the terms of the contract (solvency) or the risks underlying the contract (conduct of business).

Insurance companies perform a key function in the economy, **and their failure could have very detrimental consequences for its functioning. Intervention of public authorities is therefore needed, in particular to guarantee that insurance companies are able to honour insurance contracts (i.e. that they are "solvent").** For this reason, there is regulation as regards the solvency of insurance companies and for minimisation of the disruption and losses for policyholders in case of insurance failure (so-called "prudential supervision").

Since the 1970s, the European Union (EU) has adopted a series of legislative acts (so-called "Solvency I") aiming at facilitating the development of a Single Market in insurance services, whilst securing an appropriate level of policyholder protection. However, this framework was characterised by a number of structural weaknesses. In particular, it ignored key risks faced by insurers (for instance, risks of negative downturns in financial markets) and did not guarantee an equivalent level of protection for all citizens in Europe.

Solvency II which entered into application in 2016, introduces for the first time a harmonised, sound and robust prudential framework for insurance firms in the EU. It is based on the risk profile of each individual

insurance company but still ensures comparability, transparency and competitiveness. The Solvency II framework consists of three 'pillars':

- quantitative requirements, including the rules to value assets and liabilities (in particular, technical provisions – liabilities towards policy holders), to calculate capital requirements and to identify eligible own funds to cover those requirements (referred to as “Pillar 1”);
- requirements for risk management, good governance, as well as the details of the supervisory process with competent authorities (“Pillar 2”);
- requirements on transparency, reporting to supervisory authorities and disclosure to the public (“Pillar 3”).

The same approach is being applied for insurance groups as for individual insurers, so that groups are recognised and managed as economic entities.

As confirmed by stakeholders’ statements at the recent conference organised by the European Commission on the review of Solvency II[3] on 29 January 2020, the general perception is that the European framework as a whole functions well. At the same time, the experience gained from the first years of application of the Solvency II framework and the feedback received from industry stakeholders and public authorities have identified a number of areas, which could deserve a review. Furthermore, the framework also needs to take into account the political priorities of the European Union (notably the European Green Deal, the completion of the Capital Markets Union, and the strengthening of the single market) and should also be flexible enough to cope with any economic and financial developments (including the unprecedented protracted low – and even negative – interest rate environment).

Following a formal request for advice that was sent by the European Commission to the European Insurance and Occupational Pensions Authority (EIOPA) in February 2019, EIOPA conducted three technical consultations covering the 19 topics of the Solvency II review that were identified by the European Commission.

In parallel to EIOPA’s work on the review, **the European Commission intends to collect feedback from a wider audience, including policyholders, consumer associations, and financial market stakeholders other than insurers, by conducting its own consultation on the review**. This more general consultation will cover four main areas:

1. long-termism and sustainability of insurers’ activities and priorities of the European framework;
2. proportionality of the European framework and transparency towards the public;
3. possibilities to improve citizens’ trust, to deepen the single market in insurance services and to enhance policyholder protection and financial stability;
4. new emerging risks and opportunities (e.g. sustainability, technological developments, etc.) that may need to be addressed by the European framework.

The results of the present consultation will complement the one resulting from EIOPA’s technical consultations. They will all feed into the European Commission review process of the Solvency II framework.

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[1]↑ Note that throughout this consultation document, unless explicitly stated otherwise, the term “insurance” encompasses both insurance and reinsurance.

[2]↑ For instance, a house fire, a car accident causing damages to the policyholder’s car or physical injuries, the death of the insured triggering the payment of accumulated capital to pre-determined beneficiaries in the case of a life insurance contract, etc.

[3]↑ The recording of the conference is available here.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-s2review-consultation@ec.europa.eu.

More information:

- on this consultation
- on the consultation document
- on Solvency II
- on the protection of personal data regime for this consultation

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- ○ Gaelic
- ○ German
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- ○ Hungarian
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- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO) (selected)
- Public authority
- Trade union
- Other

*First name

Monique

*Surname

Schuilenburg

*Email (this won't be published)

moniques@actuary.eu

*Organisation name

255 character(s) maximum

Actuarial Association of Europe, Swiss Verein with a branch office in Brussels, Belgium.

*Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making.

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* Country of origin

Please add your country of origin, or that of your organisation.

- Afghanistan
- Åland Islands
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- American Samoa
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- Anguilla
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- Azerbaijan
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- Egypt
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- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Saint Martin
- Saint Pierre and Miquelon
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
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- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
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			Solomon Islands
Bahamas	French Guiana	Mexico	Somalia
Bahrain	French Polynesia	Micronesia	South Africa
Bangladesh	French Southern and Antarctic Lands	Moldova	South Georgia and the South Sandwich Islands
Barbados	Gabon	Monaco	South Korea
Belarus	Georgia	Mongolia	South Sudan
Belgium	Germany	Montenegro	Spain
Belize	Ghana	Montserrat	Sri Lanka
Benin	Gibraltar	Morocco	Sudan
Bermuda	Greece	Mozambique	Suriname
Bhutan	Greenland	Myanmar /Burma	Svalbard and Jan Mayen
Bolivia	Grenada	Namibia	Sweden
Bonaire Saint Eustatius and Saba	Guadeloupe	Nauru	Switzerland
Bosnia and Herzegovina	Guam	Nepal	Syria
Botswana	Guatemala	Netherlands	Taiwan
Bouvet Island	Guernsey	New Caledonia	Tajikistan
Brazil	Guinea	New Zealand	Tanzania
British Indian Ocean Territory	Guinea-Bissau	Nicaragua	Thailand
British Virgin Islands	Guyana	Niger	The Gambia
Brunei	Haiti	Nigeria	Timor-Leste
Bulgaria	Heard Island and McDonald Islands	Niue	Togo
Burkina Faso	Honduras	Norfolk Island	Tokelau

Burundi	Hong Kong	Northern Mariana Islands	Tonga
Cambodia	Hungary	North Korea	Trinidad and Tobago
Cameroon	Iceland	North Macedonia	Tunisia
Canada	India	Norway	Turkey
Cape Verde	Indonesia	Oman	Turkmenistan
Cayman Islands	Iran	Pakistan	Turks and Caicos Islands
Central African Republic	Iraq	Palau	Tuvalu
Chad	Ireland	Palestine	Uganda
Chile	Isle of Man	Panama	Ukraine
China	Israel	Papua New Guinea	United Arab Emirates
Christmas Island	Italy	Paraguay	United Kingdom
Clipperton	Jamaica	Peru	United States
Cocos (Keeling) Islands	Japan	Philippines	United States Minor Outlying Islands
Colombia	Jersey	Pitcairn Islands	Uruguay
Comoros	Jordan	Poland	US Virgin Islands
Congo	Kazakhstan	Portugal	Uzbekistan
Cook Islands	Kenya	Puerto Rico	Vanuatu
Costa Rica	Kiribati	Qatar	Vatican City
Côte d’Ivoire	Kosovo	Réunion	Venezuela
Croatia	Kuwait	Romania	Vietnam
Cuba	Kyrgyzstan	Russia	Wallis and Futuna
Curaçao	Laos	Rwanda	Western Sahara
Cyprus	Latvia		Yemen

		Saint Barthélemy	
Czechia	Lebanon	Saint Helena Ascension and Tristan da Cunha	Zambia
Democratic Republic of the Congo	Lesotho	Saint Kitts and Nevis	Zimbabwe
Denmark	Liberia	Saint Lucia	

* Field of activity or sector (if applicable)

at least 1 choice(s)

- [ ] Accounting
- [ ] Auditing
- [ ] Banking
- [ ] Credit rating agencies
- [x] Insurance and reinsurance
- [x] Pension provision
- [ ] Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- [ ] Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- [ ] Social entrepreneurship
- [ ] Other
- [ ] Not applicable

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- ( ) **Anonymous**
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  Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

☑ I agree with the personal data protection provisions

Section 1: Long-termism and sustainability of insurers' activities, and priorities of the European framework

The main objective of Solvency II is the protection of policyholders.

The protection of policyholders requires that insurance companies are subject to effective solvency requirements based on the actual risks they are facing. Such a framework provides incentives for insurance companies to appropriately measure and manage their risks. The framework is defined in such a way that the risk of an insurance failure, even though not null, is of very low probability, as an insurer complying with its requirements is supposed to be able to cope with an extreme adverse event whose probability of occurrence is only 1 in every 200 years.

At the same time, it is important to ensure that insurers are not hindered from providing long-term funding to the European economy in line with the European Commission's political priorities such as:

- the European Green Deal, which should make Europe the world's first climate-neutral continent by 2050. To achieve this ambition, there are significant investment needs as well as opportunities. Their magnitude requires mobilising both the public and private sectors, including insurance companies;
- the completion of the Capital Markets Union (CMU), which aims to mobilise financial resources in Europe and channel them to all companies, including small and medium-sized enterprises (SMEs), and in infrastructure projects that Europe needs to expand and create jobs.

Solvency II includes a series of provisions aiming to ensure that the framework does not unduly prevent insurers from providing financing to the economy and to offer life insurance products with guaranteed returns (or capital guarantee). However, according to some stakeholders, European legislation has incentivised insurance companies to retrench from more long-term and thus illiquid assets (e.g. infrastructure projects). This may negatively affect European economic growth, and result in lower expected returns for life insurance policyholders.

Moreover, the current heightened equity and credit spreads volatility and the significant stock market contraction stemming from the Covid-19 crisis, as well as the vulnerabilities in the real estate sector[4] must be taken into account when reviewing the existing rules. The prudential framework should provide the right incentives for robust risk management while avoiding excessive risk-taking, and limiting financial stability implications. At the same time, it should avoid procyclical behaviour and not unduly prevent insurers from contributing to the long-term financing of the economic recovery of the European Union in the aftermaths of the current crisis.

In addition, while insurers' investments are exposed to risks related to climate change and reputational risk, European legislation may not appropriately reflect those risks, hence not providing the right incentives. The European Central Bank recently showed that climate change-related risks have the potential to become systemic for the euro area through possible significant exposures to climate risk, which are currently not included in the prudential framework[5].

Finally, over the recent years, insurers have faced an unprecedented environment of low interest rates, which is progressively deteriorating their profitability. This can raise several concerns. First, despite the prudential framework, it can incentivise insurers to "search for yield" by taking more risks and investing in more complex securities, as pointed out by the European Central Bank in November 2019[6]. Second, the low interest rate environment can also materially affect the life insurance landscape, and the ability of insurers to offer insurance products with guarantees. The current trend of risk shifting to policyholders can result in new challenges, depending on customers' risk tolerance and financial literacy.

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[4]↑ See for instance, ESRB's warnings and recommendations on medium-term residential real estate sector vulnerabilities.

[5]↑ See the special feature "Climate change and financial stability" published in May 2019 as part of the European Central Bank's Financial Stability Review.

[6]↑ See the ECB's Financial Stability Review of November 2019.

Objectives of the framework and priorities of the review

According to the current European legislation, "*the main objective of insurance and reinsurance regulation and supervision is the adequate protection of policy holders and beneficiaries. (...) Financial stability and fair and stable markets are other objectives of insurance and reinsurance regulation and supervision which should also be taken into account but should not undermine the main objective*".

Question 1: What could be the renewed objectives of European legislation for insurance companies?

On a scale from 1 to 9 (1 being "not important at all" and 9 being "of utmost importance"), please rate, and if possible rank, each of the following proposals.

	1	2	3	4	5	6	7	8	9	Don't know /no opinion
Policyholder protection	○	○	○	○	○	○	○	○	◉	○
Financial stability	○	○	○	○	○	○	○	◉	○	○
Fostering investments in environmentally-sustainable economic activities which will be defined in the EU taxonomy[7]	○	○	○	○	○	○	○	○	○	◉
Fostering long-term investments in the real economy and providing long-term financing to European companies, including SMEs	○	○	○	○	○	○	○	○	○	◉
Ensuring a fair and stable single market	○	○	○	○	○	◉	○	○	○	○

[7]↑ The taxonomy is a clear and detailed EU classification system for sustainable and environmentally-sustainable activities, which is currently under development. It is aimed to become a "common language" for all actors in the financial system.

If you identify other political objectives, please specify them and give a rating of their importance from 1 to 9 for each of them:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Fostering investments cannot be achieved by inconsistent capital or reserving requirements as we need to stick to the crucial principle “same risk, same capital”.
This is also to consider in the aftermath of the Covid-19 pandemic. Insurers are expected to play a role in the process of re-industrialisation of the EU by fostering long-term investments in real economy and providing long-term financing to European companies.
Undertakings have to be able to meet their obligations towards policyholders. They need a reliable SII-framework and a sound risk assessment of potential investments.
The degree of policyholder protection and financial stability should not solely be assessed by Solvency II requirements. It is important to consider the whole regulation by taking into account national requirements resulting from local GAAP, fiscal and contract law.

Question 2: In light of market developments over the recent years, in particular the low or even negative interest rates environment and the Covid-19 crisis, what should be the priorities of the review of the European legislation for insurance companies?

On a scale from 1 to 9 (1 being “low priority” and 9 being “very high priority”)? Please rate, and if possible rank, each of the following proposals.

	1	2	3	4	5	6	7	8	9	Don't know /no opinion
Ensuring that insurers remain solvent									X	
Ensuring that insurers' obligations to the policyholders continue to be fulfilled even in the event that they fail								X		
Ensuring that there are no obstacles for insurance companies to contribute to the investment needs of the European Green Deal, i.e. fostering insurers’ investments that help the transition to carbon neutrality by 2050						X				
Ensuring that there are no obstacles for insurance companies to invest in accordance with the objectives of the Capital Markets Union, i.e. fostering insurers’ long-term										X

financing of the European economy, including SMEs										
Facilitating insurers' ability to offer (sufficiently) high returns to policyholders, even if this implies taking more risks										●
Facilitating insurers' ability to offer products with long-term guarantees						●				
Ensuring that insurers do not face liquidity issues (i.e. that they have sufficiently liquid assets) to meet at all times short-term obligations[8]										●
Preventing the build-up of systemic risk and ensuring financial stability										●

[8]↑ i.e. cash or other highly marketable securities.

If you identify other priorities, please specify them and give a rating from 1 to 9 to each of them:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Our ranking has to be seen in connection with the objectives discussed in the context of Q1.
Ensuring that insurers remain solvent is of highest priority.

To ensure this, the framework has to be risk-sensitive in due consideration of the specificities of the insurance business, e.g. the illiquidity of liabilities in some lines of business. The valuation should avoid artificial volatility.

A strengthening of Pillar II and a fostering of sound risk management practise is inevitable in relation to all issues listed in the table above.

Capital requirements for investments in SMEs (both in equity and debt), for long-term investments and for sustainable investments

Question 3: Have the recent changes to the prudential framework regarding equity investments appropriately addressed potential obstacles to long term investments?

- ◯ Yes
- ◉ No, the recent changes will not have a material impact on insurers' ability to invest for the long term
- ◯ Don't know/no opinion

Please specify what the remaining obstacles are, and how to address them while preserving the necessary prudential safeguards to ensure policyholder protection:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Despite attempts undertaken to make LTE investments more attractive, some countries cannot or until now have not made investments qualifying for this asset class. Requirements coming from GAAP (local and IFRS) and the market impact of the actions of the ECB have a significant influence on the strategic asset allocation of insurers. The prudential framework cannot address these issues appropriately.
The LTE sub-module has reduced obstacles for long term investments, particularly with respect to equity investments for SMEs through e.g. private equity funds. However, recent indicative proposals by EIOPA (EIOPA-BoS-20/107, p.18) will greatly restrict the effectiveness of the LTE sub-module for life insurers by requiring that life liabilities should belong to category I and should have a duration exceeding 12 years. Restricting life liabilities to category I will in practice exclude the possibility of lapses for life contracts. Such an exclusion would not be appropriate as many contracts technically allow for lapses, but in practice show stable and predictable lapse cash flows and/or impose fiscal or contractual exit penalties in case of lapse.

The eligibility conditions for long-term actions are restrictive and very largely limit the impact on the S2 ratio. In particular, the following conditions could be reviewed:
- Weighty constraint in the balance sheet: at this stage, the commitments identified in relation to portfolios including long-term actions cannot represent more than 50% of the total balance sheet
- Scope constraint: there is no possibility of applying this reduced equity shock for assets against equity;
- Investment type constraint: the list of the four types of funds eligible for the measure only concerns a very small portion of the funds available on the market

Question 4: Does the prudential framework set the right incentives for insurers to provide long-term debt financing to private companies, including SMEs (i.e. to invest for the long-term in long-maturity debt instruments)?

Please indicate the statements with which you agree.

at least 1 choice(s)

- [ ] Yes, the framework provides the right incentives
- [ ] No, investments in long-maturity bonds (more than 15 years) should be less costly for insurers, regardless of whether they hold their investments for the long term
- [x]

No, there should be a preferential treatment for long-term investments in bonds that are held close to maturity, with appropriate safeguards[9]

- [x] No, and in order to effectively reduce the cost of investment in bonds, Solvency II should allow all insurers to apply the dynamic modelling of the volatility adjustment
- [ ] No, and I have another proposal to address this issue
- [ ] Don't know/no opinion

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[9]↑ Note that in this case, it may be justified that the capital relief cannot exceed the one stemming from matching adjustment.

Please specify your answer to question 4 (if needed):

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Instead of a preferential treatment, we would rather implement a risk-adequate treatment considering both, the specific characteristic of long-term insurance business together with the inherent illiquidity. The risk-based approach of SII should not be undermined. The specificities of long-term life insurance business with guarantees require a consistent reflection when assessing market risks associated with them.
The one-year horizon discussed in the context of LTE or infrastructure investment can be an important obstacle for an adequate valuation.
Correction is needed, if external factors are impairing the idea of market consistency. This is especially the case for ECB-measures (Asset Purchase Program). Significant impact on the liquid part of the curve is acknowledged by ECB (P. Lane). Extrapolation without a defined convergence process (period and tolerance) extends such distortions for all future years. The extrapolation requires a mark-to-model approach. An important assumption is the long-term expected mean reversion level (currently the UFR, determined in accordance with EIOPA’s methodology introduced in 2017). If this is reached within a fixed convergence period such short- to mid-term distortions can be mitigated. The risk of artificial volatility can be reduced.

Insurers’ contribution to the objective of a sustainable economic growth and policyholder protection

Solvency II is a risk-based and evidence-based framework. This implies in particular that the quantitative rules governing capital requirements for insurers’ investments are supported by quantitative evidence. This entails a need for sufficient and robust data to support changes to Solvency II, which could further incentivise insurers to contribute to the long-term and sustainable financing of the European economy, while preserving the necessary level of policyholder protection embedded in the framework.

In particular, there is a need for sufficient evidence that the risk of investment in SMEs or in environmentally-sustainable economic activities and associated assets is lower than what the current prudential rules would imply.

Question 5: Do you agree or disagree with each of the following proposed change to quantitative rules in Solvency II?

	Agree	Disagree	Don't know /no opinion
We should make it less costly for insurers to invest in SMEs			X
We should make it less costly for insurers to invest in environmentally-sustainable economic activities and associated assets (so-called "green supporting factor")		X	
We should make it more costly for insurers (and therefore provide disincentives) to invest in activities and associated assets that are detrimental to the objective of a climate-neutral continent (so-called "brown penalizing factor")			X

Please explain your reasoning for your answer to question 5 (if needed):

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Preliminary remark: All types of assets (green supporting or brown penalizing) have a market value and market volatility. Market consistent valuation is the main valuation principle of SII and we should not support unjustified incentives.

These proposals cannot be agreed or disagreed without considering the basic principles of risk management in an insurance undertaking. Even a change would require a sound analysis of the inherent risk. Investments of insurers are guided by the utmost goal of meeting the obligations towards policyholder. Especially in case of life insurance undertakings offering long-term guarantees such a thorough analysis is indispensable. Current assessment of categories like green or brown might turn inadequate in future (example: nuclear plants).

Such classifications must consider the whole picture. Similar risks should always be quantified under Solvency II with similar capital needs. A differentiation based on other principles is not risk adequate and should be avoided. We would not support lower capital charges being attached to such investments if it is not commensurate with the risks associated with such investments.
Investments in SMEs ,environmentally sustainable economic activities and associated assets should be encouraged, however we do not believe in penalizing investment in activities and associated assets that "are detrimental" to the objective of a climate-neutral continent. Public guarantees or other appropriate accompanying measures could be provided for such investments. These would reduce the risk charges in the desired way maintaining the principle "same risk, same capital" without explicitly penalizing “brown” investments. If such investments prove to be more risky, this would be reflected by higher costs. Green transition might be impaired by the lack of appropriate investments.

Short-term volatility, procyclicality, and insurance products with long-term guarantees

The current Covid-19 crisis, characterised by heightened volatility in financial markets, drops in stock markets, rises in spreads and a series of rating downgrades by credit rating agencies, has resulted in more volatility of insurers’ solvency positions over the last months, according to industry stakeholders and public authorities. This requires assessing the effectiveness of the mechanisms embedded in the Solvency II framework (in particular, the so-called "long-term guarantee measures and the measures on equity risk") aiming at mitigating volatility of insurers' solvency and at avoiding procyclical behaviours. If this volatility becomes excessive, it may hinder their ability to offer products with long-term guarantees and may incentivize them to largely shift the risk to policyholders (via the distribution of unit-linked or index-linked products). This could question the sustainability of the traditional life insurance business.

Question 6: Does Solvency II appropriately mitigate the impact of short-term market volatility on the solvency position of insurance companies?

- ○ Yes
- ● No
- ○ Don't know/no opinion

Please indicate how the framework could mitigate the volatility of:

- **fixed-income assets**
- **stock markets**

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Some elements in the SII are designed to mitigate the impact of short-term market volatility. The volatility adjustment (basis risk, application ratios, risk correction spread) is one of these elements. Symmetric equity adjustment can also mitigate some volatility.
However, as highlighted in the previous consultation paper issued by EIOPA (ref.EIOPA-BoS-19/465) some significant flaws have been identified with the current approach of the VA.
In this regard the following should be considered:
1) An appropriately calibrated general application ratio. In recent indicative proposals by EIOPA (EIOPA-BoS-20/107, p. 10) this ratio will be maintained (at 85%), and additional restrictions are imposed for contracts that allow lapses (multiplicative ratio of 60%). Hence, a significant portion of volatility will continue to have an impact on the own funds of insurers.
2) An appropriate risk correction allowing for sufficient market consistency and countercyclicality
3) Spreads based on the undertaking-specific portfolio, in order to reduce basis risk with the currently applied EUR reference portfolio.
4) The proposed introduction of an application ratio to consider the illiquidity of liabilities is not sufficient to reflect this feature as long as the reference portfolio is used to determine the relevant spread (see also Q4).

As of now other flaws e.g. Market Freeze approach, disallowance of negative spreads for corporate and government bonds portfolios and country-cliff effect, haven't been addressed yet as the review process is still ongoing.
As the VA cannot be used in the calculation of the risk margin, its mitigating effect is reduced and only effective in the calculation of the technical provisions.
Long-term business distortions in bond markets caused by short- to mid-term market interventions of the ECB can be mitigated or amplified by the choice of the extrapolation method for the risk free interest rate term structure.

Question 7: Does Solvency II promote procyclical behaviours by insurers (e.g. common behaviour of selling of assets whose market value is plunging or whose credit quality is decreased), which could generate financial instability?

- (x) Yes
- ( ) No
- ( ) Don't know/no opinion

Please indicate how the framework could avoid procyclical behaviour by insurers:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

A risk of selling more volatile and downgraded assets can be observed. The amount of unrated assets in increasing. This might not only be caused by Solvency II requirements. The low interest environment promotes a search for yield.
Adjusting asset portfolio short-term in order to comply with Solvency II requirements at reporting dates could be a risk. Given a working governance structure this risk should be controllable.

Procyclical behaviour can be observed not only with regard to asset allocation. A procyclical behaviour can also be observed with regard to insurance products. Discriminating undertakings using transitional measure should be avoided. Also publications of the ESRB especially concerning the UFR determined on the basis of an agreed methodology are even fostering this procyclical behaviour. Assuming currently available yields on long-term investments should not be confused with a long-term expectation which is required for the determination of the UFR.

Over the recent years, in some countries, insurers have favoured the supply of insurance products where the investment risk is shifted to policyholders (i.e. higher risk for policyholders, but also prospects of potential higher returns over the long run), instead of traditional life insurance products with guarantees.

In a recent report[10], the International Monetary Fund recommended public authorities to consider “policies serving as a disincentive to new life insurance products offering guaranteed returns”.

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[10]↑ See the Global Financial Stability Report: Lower for longer (October 2019), and in particular page 47.

Question 8: Some stakeholders claim that Solvency II has incentivised insurers to shift investment risk to policyholders. Do you agree with this statement?

- ( ) Yes
- (x) Yes, but it is not the most important driver
- ( ) No

Don’t know/no opinion

Question 9: Do you agree with the International Monetary Fund that public authorities should aim to provide disincentives to the selling of new life insurance products offering guaranteed returns?

	Yes	No	Don’t know/no opinion
From the point of view of a policyholder		X	
In terms of financial stability		X	

Please explain your reasoning for your answer to question 9 (if needed):

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We see and acknowledge the negative effects of high guaranteed interest rates that cannot be revised. Depending on the role of insurance in the social framework and the needs of the public, such a recommendation needs a thorough analysis and should provide alternatives.
Especially concerning annuities, it might be of high importance to offer a solution that cannot drop below a minimum pay-out. We do not see that financial stability is at risk, if such tariffs are calculated after an adequate and comprehensive risk assessment. Especially new forms of guarantees adapted to sound investment strategies should be possible.
Undeniable, offering products with guarantees can be risky and costly for companies and policyholder as well. Policyholders seek for risk covering but also stability. Appropriate safeguards should exist in terms of product offering with reasonable rates subject to a maximum as defined by the regulation, risk management, governance and prudential control. Capital requirements based on Solvency II may already serve as a disincentive as they reflect the associated risks. We do therefore not believe that disincentives need to go beyond this. It should be considered that long term (pension) savings from the policyholders can also contribute to financial stability with long term investments.

Prudential rules and Covid-19

The Covid-19 outbreak allows assessing the robustness of the regulatory framework under a crisis situation. As Solvency II requires insurers to set aside capital to absorb losses stemming from extreme events – including sanitary crises such as a pandemic – that occur once in two hundred years, the insurance sector proved to be in general well-prepared to cope with the current adverse financial and economic conditions[11].

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[11]↑ By the end of 2019, insurers held on average an amount of capital which was more than twice as high as the one required by the legislation.

Question 10: In light of the Covid-19 crisis, have you identified any major issues in relation to prudential rules that you were unaware of or considered of lesser importance prior to the pandemic?

Yes

No

Don’t know/no opinion

*** Please elaborate your anwser to Question 10:**

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

COVID-19 is even more challenging in the low interest rate environment. This is exacerbated by ECB’s activities which result in a compression of interest rates. It remains unclear how to cope with this event in the long term.
If COVID-19 could be assessed as an exceptional adverse situation or close to the 1 in 200 year-event, what are the implications in terms of recoverability? Own funds might be reduced considerably. Re-establishing might need additional support during perhaps extended recovery period. It might be recommendable to lower the confidence level during a transitional period.
The pandemic and associated economic impacts may call some calibrations and correlations in the standard formula into question (e.g. the health pandemic stress which has limited scope or the correlation between underwriting and market stresses). We have no reliable and final data to say if this is in fact the case.
Any firm conclusion is premature at this stage but some areas to follow up include:

- the over/undershooting impact of the VA has been exacerbated during the Covid-19 turmoil
- the crisis evidenced the strong potential dependence between pandemic and market risk as a result of lockdown and general recession. This is an important learning curve for designing scenarios and their uncertainty as part of pillar 2
- evolution of the reinsurance market including some concentration
- cyber risk has become more important following massive telework

Other issues

Some insurance companies are subsidiaries of (and therefore belong to) wider insurance groups. The European legislation identifies such insurance groups as integrated “economic entities”, which are therefore subject to Solvency II rules on a consolidated basis. However, under current rules, public authorities focus on ensuring that both the solo entities of the group and the group as a whole have enough capital to cover their risks.

Some stakeholders are of the view that it might be sufficient for public authorities to supervise the solvency position of insurance groups only (and not of individual insurers), and to ensure that they are sufficiently well-capitalised to support all funding needs of insurance subsidiaries. This would imply that individual insurers belonging to a group could be left under-capitalised, provided that the group as a whole is well-integrated and has sufficient available capital to cover all risks to which insurance companies within the group are exposed, and therefore to meet each subsidiary’s financing needs on demand.

Question 11: From the point of view of policyholders, would it be acceptable to waive Solvency II requirements to insurance companies that belong to a group, if the group as a whole is subject to “strengthened” supervision?

Yes, it is sufficient for the insurer to rely on the group's wealth

No, it is not sufficient for the insurer to rely on the group's wealth

Don't know/no opinion

Please explain your answer to question 11 (if needed):

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

It might not be sufficient or even possible because of differing national regulation and local specific requirements. Assets are therefore not always fully fungible nor transferable and a group view could not fully catch these limitations.
There could be issues with timing/availability of funds. There would also be reduced powers for local regulators and perhaps less incentive for local management to manage the business prudently.
If, on the other hand, a sufficient and irrevocable obligation of the parent company to compensate for losses and capital needs of the subsidiary and the protection of policyholders is regulatory established (similar to German PLT agreements), a strong group supervision could be sufficient.
Groups' wealth could be factored in during recovery planning.

Some stakeholders claim that Solvency II focuses too exclusively on the monitoring of individual insurers without taking into account their exposure to and interconnectedness with other insurers, the broader financial sector and the real economy.

Question 12: Should the European legislation be amended to better take into account insurers' exposure to and interconnectedness with the broader financial sector and the real economy? Please indicate the statements with which you agree.

at least 1 choice(s)

- [x] Yes, in targeted areas of the framework[12]
- [x] Yes, a number of gaps in the framework need to be addressed in areas other than those mentioned in the previous answer (for instance, insurers' significant exposure to specific types of assets)
- [ ] No
- [ ] Don't know/no opinion

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[12] Reference can be made to the closed list of topics identified in section 3.10 of the European Commission's Call for advice: the own risk and solvency assessment, the prudent person principle, liquidity risk management and reporting, and systemic risk management planning.

Please specify the additional instruments that you would consider, and the type of systemic/financial stability risks that those instruments would aim to address:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

It is important to point out that there is only one economy every stakeholder is acting in and every stakeholder influences and is influenced by. Hence it is clear, that the economy or all players in the financial sector are implicitly interconnected.

COVID-19 has highlighted the worldwide connectedness and that systemic risk needs to be considered more carefully. The pandemic itself did not cause solvency issues for life insurers, rather, it caused solvency issues through knock-on market volatility. Risk costs arising from the pandemic (a “life” risk) may actually cause more significant issues for non-life businesses. COVID-19 has emphasised the importance of considering the insurance industry from a systemic risk perspective and regulators (not individual companies) who can take a pan-European, systemic risk perspective should perhaps consider approaches based on systems analysis or network theory.

Section 2: Proportionality of the European framework and transparency towards the public

Scope of Solvency II

Solvency II is a sophisticated while often complex prudential framework. Applying it appropriately is a costly exercise.

Therefore, certain companies that provide insurance services are not covered by the European framework due to their size, their legal status, their nature – as being closely linked to public insurance systems – or the specific services they offer. In practice, Solvency II does not apply to very small insurance companies (it is worth mentioning that the exclusion from Solvency II also prevents the insurers concerned from doing business on a cross-border basis). However, the quantitative thresholds of exclusion have not been reviewed since the entry into force of the Directive in 2009.

Increasing the quantitative thresholds of exclusion of Solvency II would result in an increase in the number of insurance companies which are not in the scope of the European framework. This increase could be justified by the objective of further alleviating undue regulatory burden for small insurers, and might result in lower premiums to be paid by policyholders of those small firms with (possibly) higher fixed costs.

On the other hand, for policyholders of those firms, which would be excluded from the scope of Solvency II, there is no guarantee that the level of protection introduced at national level would be as high as the one stemming from Solvency II rules. In addition, from a European perspective, it might be argued that new exclusions from the scope of Solvency II would go against the objectives of integration of the Single Market for insurance services and of level-playing field within the European Union.

Question 13: From the point of view of policyholders, should the scope of small insurance companies, which are not subject to Solvency II be extended?

- ○ Yes
- ○ No
- ● Don’t know/no opinion

Proportionality in the application of Solvency II

Solvency II aims at limiting the burden for small and medium-sized insurance companies within its scope. One of the tools by which to achieve that objective is the application of the proportionality principle. In other words, the requirements should be adapted and simpler when such an approach is justified by the nature, scale and complexity of the risks. That principle should apply both to the requirements imposed on insurance companies and to the exercise of powers by public authorities.

As Solvency II is a “principle-based” framework, its implementation by public authorities heavily relies on supervisory judgement by public authorities. In particular, as regards proportionality, there are only broad principles regarding the way of assessing whether a given insurer may be allowed to implement certain requirements in a more proportionate and flexible way.

In practice, this high level of supervisory discretionary power may have limited the effective implementation of the proportionality principle, and the effective possibilities for small insurers with a low risk profile to implement the framework in a simplified way.

For this reason, some stakeholders claim that Solvency II should be more “rules-based” regarding the implementation of the proportionality principle, which would require setting clear and unambiguous criteria in the legislation - for automatic allowance for simplified rules when those criteria are met. However, it may be challenging in practice to define appropriate criteria, which would take into account the actual risks faced by each insurer.

Question 14: Should public authorities have less discretion when deciding whether insurers may apply simplified approaches and/or implement Solvency II rules in a more proportionate and flexible way? Please explain your reasoning (if needed).

- (x) Yes
- ( ) No
- ( ) Don’t know/no opinion

Please specify the criteria that should be introduced in the European legislation, in order for an insurer which meets them to be automatically granted the use of simplified approaches and/or a more proportionate and flexible application of the rules:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The principle-based approach of Solvency II is closely linked to an effective governance framework to reflect company specific peculiarities adequately. Pillar II requirements demand that the risk management function and actuarial function explain the adequacy of the chosen approach and this should be sufficient but also fully supported by regulators to implement the proportionality principle.

A harmonisation of such simplified approaches and a standardisation of simplifications would help to avoid regulatory arbitrage. This could be done by specifying the simplifications that are permitted in Level 2 regulations or Level 3 guidelines. The effort resulting from the need to demonstrate the eligibility of the simplifications could also be considered in this context.

An example: The calculation of the risk margin. It is unclear how to prove whether using method 3 is appropriate in comparison to exact method.
Further simplifications could need to be approved by EIOPA and firms could be notified of EIOPA decisions to approve simplifications via its Q&A process.

Scope of reporting obligations

The European framework requires insurance companies to regularly submit to public authorities the information which is necessary for the purpose of prudential supervision. However, it also contains some exemptions and limitations that national authorities can grant if the companies concerned do not represent more than 20% of a Member State's insurance market.

Question 15: Should the exemptions and limitations always be subject to the discretion of the public authorities? Please indicate the statements with which you agree.

at least 1 choice(s)

- [ ] The current system of exemptions and limitations is satisfactory
- [ ] The framework should also include some clear criteria for automatic exemption and limitation
- [ ] The 20% limit should be increased
- [ ] The 20% limit should be reduced
- [ ] There should be no discretion at all
- [ ] I have another answer
- [x] Don't know/no opinion

Specificities of not-for-profit insurers

Most Solvency II rules apply uniformly to all insurers regardless of their legal form or corporate structure. This is in particular the case for governance requirements (e.g. requirements for directors and board members to have appropriate knowledge and experience).

The European legislation has required changing and strengthening the governance of mutual companies (i.e. not-for-profit companies, which are collectively owned by their members who are at the same time their clients) and paritarian institutions (i.e. not-for-profit institutions that are jointly managed by the social partners).

Question 16: Should the European framework take into account the specific features of not-for-profit insurance companies (e.g. democratic governance, exclusive use of the surplus for the benefit of the members, no dividend paid to outside shareholders)?

- ( ) Yes
- (•) No

Don't know/no opinion

The European framework has substantially improved transparency towards the public. Indeed, each insurer subject to Solvency II has to disclose – that is to say make it available to the public in either printed or electronic form free of charge – at least on a yearly basis, a report comprising information on its business strategy, financial and solvency situation, and risk management (so-called "Solvency and Financial Conditions Report" – SFCR).

Some insurers claim that this report is burdensome to produce and is not fit for purpose, as it may appear too complex and too detailed for current or prospective customers. On the other hand, other stakeholders in the financial industry (e. g. investors) are requesting further transparency on solvency data.

Please note that the European Commission is also reviewing the rules concerning non-financial reporting for public interest entities, including insurance companies[13]. One of the aims of this review is to improve publicly available information about how non-financial issues, and sustainability issues in particular, impact companies, and about how companies themselves impact society and the environment. As part of this review, the European Commission launched a public separate consultation between 20 February and 11 June 2020.

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[13]↑ More information on the review of the rules concerning non-financial reporting for public interest entities, including insurance companies.

Transparency towards the general public

Question 17: How can the framework facilitate policyholders' and other stakeholders' access to the SFCRs?

	Agree	Disagree	Don't know / no opinion
The current framework is sufficient, as it already requires insurers to publish their SFCR on their website if they own one	X		
The framework should clearly require that insurers' publication on their website is easily accessible for the public	X		
Insurers should be required to send (electronically or by mail) on a regular basis a summary of the SFCR to each policyholder		X	
Insurers should be required to send (electronically or by mail) the SFCR to each policyholder who explicitly requests for it		X	
Other options			X

Please specify your answer to question 17 (if needed).

In particular, if you identified other options, please elaborate:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Transparency is key for Solvency II. The proposed framework clearly is suitable to boost transparency. Nevertheless, sending a summary of the SFCR to each policyholder is costly and might be of use only for a smaller group. The publication on the website is the preferred option. It is sufficient to place a link easy accessible on the insurer's website. Such a link to the SFCR could simultaneously offer access to SFCRs of previous years allowing a comparison.

A short online training could in addition help to understand the key concepts of the content of the SFCR to any stakeholder.

NSA's could think about publishing on their website key SFCR-information ("2-pager", mandatory templates) from all undertakings under supervision in a standardized format together with a link to the related full SFCR on the website of the respective undertaking.

Question 18: If you have already consulted a SFCR, did you find the reading insightful and helpful, in particular for your decision making on purchasing (or renewing) insurance, or investing in/rating an insurance company? Please indicate the statement(s) with which you agree.

at least 1 choice(s)

- [x] The reading was insightful
- [ ] The information provided was in the right level of details
- [x] The information provided was too detailed
- [ ] The information provided was redundant with what can be found in other public reports by insurers
- [ ] No, the reading was not insightful
- [ ] I have never consulted a SFCR
- [ ] Don't know/no opinion.

Please specify your answer to question 18.

If you are of the view that some information is missing, or on the contrary that information is too detailed or redundant, please elaborate and give examples:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As the reports have to address a huge variety of perspectives (e.g. policyholders, rating experts and analysts) they cannot provide the right level of granularity for every reader. That the contents can be insightful for professionals performing their jobs (e.g. analysts, companies researching competitors, for M&A purposes etc.). Together with annual reports of the undertaking they provide an overview of the economic situation of the undertaking. When purchasing individual insurance, it is hardly imaginable that policyholders will consult these SFCRs.

The scope and the level of detail are not appropriate for policyholders. Consequently, we propose to remove some parts of the SFCR. Especially the part concerning business and performance seems redundant since this information can be found (mostly) in the financial statement of the undertaking. The information in the governance part is also too extensive and largely irrelevant for policyholders (e.g. outsourcing). Finally statements of non-application would inflate the report unnecessarily and disrupt the reading flow.

Question 19: Which information should be provided to policyholders on insurers' financial strength, business strategies and risk management activities? What should be the ideal format and length of the SFCR?

3000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The proposed subdivision of the SFCR in sections addressing the policyholders versus addressing the professional public is helpful. The report to policyholders ("two-pager") should in reality not be longer than five pages and only focus on the most essential information. We reject the introduction of a machine-readable format as we deem a pdf-file to be sufficient for the purpose to inform policyholders.

The SFCR needs to be short and focus on essential information. It should aim at providing answer also to questions like the following: how much money is there to pay my claims, how long does it take to pay my claims, what if it is a big claim, how many claims get paid, how many do not get paid, what is the probability my claim will not get paid, how do my premiums get spent.

The length will need to be proportionate to size and nature of business. We believe that sections on business and performance, governance and risks can be quite long-winded and difficult to follow and the information may not be very informative so perhaps these sections could be shortened and some requirements as to what is to be contained in these sections could be removed.

Question 20: Some insurers belong to wider insurance groups, which also have to publish a Solvency and Financial Conditions Report at group level (so-called "group SFCR"). Do policyholders (current or prospective) need to have access to information from group SFCRs?

- ○ Yes
- ● No
- ○ Don't know/no opinion

Question 21: Should all insurers publish a SFCR on a yearly basis? Please indicate if you agree or disagree with the following statements.

- ○ Yes, all insurers should publish a SFCR on a yearly basis
- ● Yes, but some insurers should only be required to publish a summary of their SFCR on a yearly basis

- No, a yearly publication of the SFCR should not be required for some insurers
- No, a yearly publication of the SFCR should not be required for any insurer
- Don't know/no opinion

Please indicate what you consider the appropriate frequency of publication of the SFCR (or of its summary) and whether all insurers or only some types should publish them (if the latter, please specify which types):

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

If new SFCR requirements would split the document in a condensed version for policyholders and a more detailed document with all other information, the condensed form should be published annually. In line with the proportionality principle, smaller undertakings should only be required to publish their full SFCR every 3 years.

Question 22: Some insurers use their own internal models to calculate their solvency requirements, after approval and ongoing supervision by public authorities, and not the prescribed standard approach defined by the legislation. For those insurers that use an internal model, should European legislation require them to also calculate their solvency position using standard methods for information purposes, and to disclose it to the public?

- Yes
- No, insurers that use their own internal models should not be required to publicly disclose their solvency position using standard methods, although they should be required to calculate it and to report it to public authorities
- (selected) No, insurers that use their own internal model should not be required to calculate their solvency position using standard methods
- Don’t know/no opinion

Please explain the issues stemming from such a disclosure:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The solvency position using the standard methods will not capture adequately the risk profile of the internal model user and comparisons of these figures will be misleading and lead to inadequate interpretations. Using their own internal models to calculate their solvency requirements should not penalize these insurers because in contrary they have a clearer view on their business. Imposing them to also calculate their solvency position using standard formula would lead to an additional workload without creating a feasible value added for recipients. Two sets of capital figures might even be confusing for policyholders and analysts.

Section 3: Improving trust and deepening the single market in insurance services

Supervision of cross-border business

The rationale for the EU insurance legislation is to facilitate the development of a Single Market in insurance services, whilst securing an adequate level of policyholder protection.

Insurers that have obtained a licence to operate in a Member State under Solvency II rules are allowed to operate in any other Member State of the Union (so-called “EU passporting” system).

The harmonised requirements under Solvency II aim to ensure uniform levels of policyholder protection throughout the Union.

The supervision of insurance activities (including cross-border) is the responsibility of the national public authority that granted the licence to the insurer (the “Home” authority), and not the public authorities of the other Member States where the insurer operates (the “Host” authorities). However, a European Supervisory Authority (the European Insurance and Occupational Pensions Authority) is in charge of ensuring supervisory convergence, and contributes to the coordination of the supervision of cross-border activities.

Some insurers operating cross-border have failed over the recent years, with negative impacts on policyholders. Such cases may have unduly affected public trust in the Single Market for insurance services.

Question 23: When the Home authority does not take the necessary measures to prevent excessive risk taking or non-compliance with the European rules by an insurer for its cross-border activities, should the Host authority be provided with additional powers of intervention, in order to protect policyholders?

- (x) Yes
- ( ) No
- ( ) Don’t know/no opinion

Please specify the additional powers needed:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Whilst we believe that the Host authority should have some rights in such situations we believe that it is important that the Host authority does not have the power to intervene directly in the Home regulator's work. A preferred approach would be for the Home and Host regulators to collaborate on any concerns raised and for EIOPA to act as a mediator where there are disagreements.

The recent issues in Italian medical malpractice Insurance and French construction insurance shown the current limits in terms of the protection of the policyholders. It is therefore essential to strengthen the control of cross-border insurers in order to offer a better protection to the policyholders and also to ensure a level playing field between insurers.

We recommend that information to be shared by a Host NCA with the Home NCA would include:
i. relative premium levels in the Host market, to enable identification of the competitive position of the insurer in the Host market.
ii. level of new business and growth of new business of the relevant insurer in the lines of business concerned, to enable identification of potentially market distorting features in the insurer's offering.

Question 24: Should the supervision of cross-border activities by insurers be exercised by national authorities or by a European authority?

- ○ By national authorities only
- ○ By a European authority only
- ● By national authorities, with European coordination where needed.
- ○ Other answer
- ○ Don't know/no opinion

Preventing and addressing insurance failures

Policyholders across the EU have different levels of protection in the event of their insurer's failure. National public authorities have different sets of powers to deal with an insurer whose financial position is deteriorating or that is failing.

Solvency II already provides authorities with a general power to take any measures, which they deem necessary to safeguard the interests of policyholders. It further requires firms to set up a recovery plan ("ex-post") when they do not comply with their quantitative solvency requirements. However, some Member States require insurers to also draft and maintain pre-emptive recovery plans setting out possible measures to deal with crisis scenarios. Resolution regimes, which aim to address the fall-out of an insurance failure in an orderly manner and to prepare authorities for such events with resolution plans and resolvability assessments, are mostly incomplete and uncoordinated. The lack of availability for national authorities of the right tools to deal with failures, leads to different levels of policyholder protection and affects public authorities' ability to safeguard financial stability.

In addition, a majority of Member States have introduced national Insurance Guarantee Schemes (IGS) that provide last-resort protection to policyholders. When insurers are unable to fulfil their contractual commitments, IGS offer protection against the consequences of a failure of an insurance company. These IGS are generally funded by the insurance industry. An IGS can offer protection by paying compensation to policyholders or by ensuring the continuation of insurance contracts.

However, not all Member States have created such a safety net for the protection of policyholders and the geographical scope, the coverage and powers of the current IGS differ. This implies that policyholders of insurers located within some Member States would not benefit from the same IGS protection in the event of an insurance failure as in other Member States. This situation leads to gaps and overlaps in IGS protection.

Note that the protection of victims of motor accidents in the case of the insolvency of an insurer is already covered by the proposal amending the Motor Insurance Directive, which is currently negotiated by the European Parliament and the Council of the European Union.[14]

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[14]↑ More information on the Motor Insurance Directive.

Question 25: Do you consider that insurers and public authorities are sufficiently prepared for a significant deterioration of the financial position or the failure of an insurer and that they have the necessary tools and powers to address such situations, in particular in a cross-border context?

- ○ Yes
- ◉ No
- ○ Don’t know/no opinion

Please specify the instruments or harmonised powers that are needed at each stage of preparation (i.e. recovery planning, resolution planning, resolvability assessment) and at various stages of intervention (i.e. during early intervention, recovery or resolution):

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We believe that the preparedness differs between countries. Some have already established IGS or even resolution authorities. The cross-border aspect needs to be improved.

The need to require recovery and resolution planning and to develop criteria for early intervention has to be carefully analysed. Already existing elements like IGS should be harmonised.

Concerning intervention powers limitations resulting from legal framework in a particular country especially from contract law have to be taken into account.
Proportionality has to be considered. Solvency provides already a risk based framework. Additional requirements would even implicitly increase the required security level of 99.5%.

Question 26: Should it become compulsory for all Member States to set up an IGS, in order to ensure that a minimum level of policyholder protection is provided across the EU?

- [x] Yes
- [ ] No
- [ ] Don’t know/no opinion

Please explain your reasoning for your answer to question 26 (if needed):

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

IGS are already established in a number of countries. A harmonisation would be recommendable across the EU.
The existence of an IGS in each member state would be beneficial for policyholders in the event of a collapse of an insurer. However, this may present additional costs for insurers and ultimately policyholders due to the cost of funding such a scheme. Our preference would be for a consistent minimum harmonised approach to be adopted across Europe to ensure that the requirements are not too invasive for member states but to ensure a consistent minimum level of cover is achieved.
It is important to decide which risks should be covered by IGSs after harmonisation. A unified treatment of e.g. natural catastrophe risks is not recommendable because different regions are exposed to different risks and intensities.

Question 27: Which of the following life insurance products should be protected by IGS?

- [ ] All life insurance products
- [x] Some life insurance products
- [ ] No life insurance products
- [ ] Don’t know/no opinion

Please specify which life insurance products should not be covered and explain why:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Basically all life insurance products should be considered. In a next step, one could think about excluding products not needing such a protection dependent on an informed decision of policyholders to buy such tariffs.
Retirement and long-term protection products such as retirement annuities, retirement savings, term assurances should at a minimum be protected. As being a relevant part of social security also disability and health related products should be protected.

Other products such as savings and investment contracts could potentially be omitted or covered to a lesser extent if policyholders have made an investment being aware that they may lose some or all of their investment

Country specific regulation should be considered. In Belgium, pension contracts with interest rate guarantees and work accident policies (subject to specific regulation) could be considered. Unit-linked contracts are already protected given their secured creditor status. This is however not a consistent treatment across Europe; e.g. in Slovakia or Czech Republic.

Question 28: Which of the following non-life insurance products should be protected by IGS?

	Should be covered	Should not be covered	Don't know/no opinion
Health	●	○	○
Workers' compensation	●	○	○
Insurance against Fire and other damage to property	○	○	●
General liability	○	○	●
Accident (such as damage to the driver)	○	○	●
Suretyship for home building projects	○	○	●
Other	○	○	●

Please elaborate your answer to question 28.

In particular, if you consider that other non-life insurance products should be protected please specify which products:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

A possible criterion could be whether in case of a failure of an insurer, the policyholder can easily buy an equivalent insurance protection on the market. Already existing claims and IBNR claims should be protected.

If tariff depends on age or health status of the insured person, this is in general not the case (e.g. health and worker's compensation).

Question 29: Should all mandatory insurance be covered by IGS?

- ● Yes
- ○ No

- Don’t know/no opinion

Please specify your answer for your answer to question (if needed):

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In theory, if insurance is mandatory it is required for a good reason (generally to protect individuals and the public at large). However, the definition of what is classed a mandatory insurance will need to be carefully considered. The motor insurance directive requests already a coverage mechanism.

Question 30: If your insurer fails, what would you prefer?

- Receiving compensation from the IGS
- That the IGS ensures that your insurance policy continues, for example by transferring it to another insurer
- (x) It depends on the type of insurance policy
- Don’t know/no opinion

Please explain your answer to question 30:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

For any cover that needs to be underwritten or where cost increases with age (e.g. longer term life insurance products), the policy should continue to avoid policyholders facing additional premiums or being refused cover.
Compensation may be sufficient for shorter term cover (e.g. motor or home insurance) provided there are sufficient providers (post the collapse of an insurer) to enable policyholders to obtain similar cover at similar rates to previously.

Question 31: The coverage level of IGS determines the level of protection provided to policyholders. Should the European legislation set a minimum coverage level at EU level?

- (selected) Yes
- No
- Don’t know/no opinion

Please specify up to which amount claims should be fully guaranteed as a minimum:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The protection level should not be impaired considerably.
A minimum level of cover seems reasonable. This should be a percentage (of premium/sum assured) rather than a flat amount.
The level can depend on the nature of the contract and how financially significant it is for policyholders.

Preventing financial stability risks and ensuring policyholder protection

Question 32: In order to limit the risk of insurance failures and protect financial stability, should public authorities have the power to temporarily prohibit redemptions of life insurance policies? Please indicate the statement (s) with which you agree.

at least 1 choice(s)

- [x] Yes, at sectoral level, to the extent that such a measure is absolutely necessary to address major threats to the insurance sector
- [ ] Yes, in cases where a specific insurer is in a weak financial position
- [x] Yes, in cases where a specific insurer is in financial distress, and as long as policyholders would be better off than in the event of the insurer’s failure
- [ ] No
- [ ] Don’t know/no opinion

Question 33: In order to limit the risk of insurance failures and protect financial stability, should public authorities have the power to reduce

entitlements of a life insurer's clients (e.g. reducing the right for bonuses that policyholders were initially entitled to receive)? Please indicate the statement (s) with which you agree.

at least 1 choice(s)

- [ ] Yes, if the insurer is in deteriorated financial position
- [x] Yes, as a last resort measure, and as long as policyholders would be better off than in the event of a failure
- [ ] No
- [ ] Don't know/no opinion

Flexibility of the framework under crisis situations

Solvency II provides that when exceptional adverse situations are identified by the European Insurance and Occupational Pensions Authority, national authorities may give more time for insurers to restore compliance with quantitative requirements (from six months to up to seven years). Still, there is a need to evaluate whether the Solvency II framework is sufficiently flexible and reactive to crisis situations (such as the current Covid-19 pandemic), in order to preserve insurers' solvency and financial stability, but also to restrict the regulatory burden stemming from reporting and disclosure requirements.

Question 34: Please specify whether other exceptional measures than those mentioned in Question 32 and Question 33 should be introduced in order for public authorities aiming to preserve insurers' solvency and financial stability to intervene timely and in an efficient manner during exceptional adverse situations.

Please also clarify if those measures should apply at the level of individual insurers or widely to the whole sector:

3000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Other measures could include powers to suspend dividends, place a company into resolution, require companies to close to new business, raise capital etc. The application of these measures should take into account the reason that led to a critical situation and the sectors affected. An exceptional adverse situation as mentioned in Article 138 affects sectors or lines of business. Before applying such measures widely to the whole sector a thorough analysis of the exposure of a particular undertaking needs to be considered. Depending on the outcome an application at the level of individual insurers might be adequate.
When applying such measures to a whole sector, undertakings should at least have the possibility to apply for an exemption, if a sound risk analysis shows the resilience of the undertaking with regard to this exceptional adverse situation.

Question 35: In your view, should the framework provide for flexibility to alleviate certain regulatory requirements during exceptional adverse situations?

- (selected) Yes
- No
- Don’t know/no opinion

Please specify which additional provisions/measures would provide for sufficient flexibility of the framework, and which regulatory requirements would need to be alleviated during exceptional adverse situations:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Besides the possibility to extend the recovery period a facilitation concerning the required VaR should be considered for a transition period. An exceptional adverse situation might deplete considerable parts of the own funds. A stepwise increase of the VaR during the recovery period should be considered. This could help to achieve the lost risk bearing ability without requiring significant and potentially procyclical activities.

In addition:
Reporting requirements and deadlines could be eased to allow insurers to focus on the issues at hand. Own Funds tiering restrictions could be eased to allow companies to count more Tier 2 or 3 capital while they attempt to source Tier 1 capital. Existing transitional measures could be extended.

Section 4: New emerging risks and opportunities

A. European Green Deal and sustainability risks[15]

The European Commission recently unveiled its European Green Deal for the EU and its citizens, with the aim for Europe to become the world’s first climate-neutral continent by 2050. The European Green Deal is a new growth strategy that aims to transform the EU into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net emissions of greenhouse gases in 2050 and where economic growth is decoupled from resource use. To achieve the ambition set by the European Green Deal, there are significant investment needs. These also represent opportunities for sustainable investment.

Insurance companies can contribute to these investment needs and can benefit from new opportunities arising from the green transition. Their underwriting activities can also help increase the Union’s resilience to sustainability risks, in particular when it comes to damage arising from natural catastrophes. However, insurers are exposed to climate change, both through their investment and underwriting activities. The European Insurance and Occupational Pensions Authority (EIOPA) indicated in a recent opinion[16] that the European legislation may currently not appropriately reflect those risks, hence not provide the right incentives. Insurance companies are also exposed to the transition risks.

While this consultation serves to prepare the review of Solvency II, it has to be noted that the European Commission is also preparing a renewed sustainable finance strategy for the 3rd quarter of this year and an upgraded EU Adaptation Strategy for the 4th quarter of this year, with dedicated public consultations.

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[15]↑ The questions in this section address similar issues as the questions in section 3.5. (Improving resilience to adverse climate and environmental impacts) of the consultation on the renewed EU Sustainable Finance strategy which was launched on 8 April 2020. Stakeholders that submit responses to both consultations do not need to reiterate the comments already made in responses to the questions of the consultation on the renewed EU Sustainable Finance strategy.

[16]↑ Opinion on Sustainability within Solvency II, Reference EIOPA-BoS-19/241.

Perils of the natural catastrophe module

The Solvency II standard approach for the calculation of capital requirements for natural catastrophes covers the most common types of natural catastrophes, namely windstorm, flood, hail, earthquake and subsidence. Where an insurance company uses an approved internal model for the calculation of the capital requirements, either on own initiative or on request by the national authority, additional types of natural catastrophes can be covered in the calculation of capital requirements. However, a large number of insurance companies, in particular most small and medium-sized ones, are currently not using an internal model for the calculation of natural catastrophe risk.

Question 36: Are there additional types of natural catastrophes that might become relevant to the broader insurance sector in the next years and therefore warrant an inclusion in the standard approach for the calculation of capital requirements (e.g. drought or wildfire)?

- ○ Yes, and sufficient data is available for the calibration of capital requirements for the additional types of natural catastrophes
- ○ Yes, but the calibration of capital requirements is not possible at this stage, as the data will only become available over the next years
- ○ No, additional types of natural catastrophes will continue to have lesser relevance for insurers, and they can be addressed by internal models and qualitative requirements (“Pillar 2”).
- ● Don’t know/no opinion

Use of historical data

Solvency II sets out several requirements on the use of data in the valuation of liabilities to policyholders. Notably, the data should contain “sufficient historical information” and “appropriately reflect the risks” to which the insurance company is exposed[17]. In business lines materially affected by climate change, historical data may not capture sufficiently the trends caused by accelerated climate change. EIOPA therefore recommends that insurers combine historical data with knowledge gained from recent scientific research and, where appropriate, the output of forward-looking models when valuing their liabilities towards policyholders.

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[17]↑ See Article 19 of Commission Delegated Regulation (EU) 2015/35.

Question 37: Beyond the general rules on the use of data, should Solvency II rules explicitly require insurers to assess whether the data used in the valuation of liabilities to policyholders captures sufficiently trends caused by climate change?

- [x] Yes, and requiring this assessment is of high importance
- [ ] Yes, and requiring this assessment is of medium importance
- [ ] Yes, but requiring this assessment is of low importance
- [ ] No
- [ ] Don't know/no opinion

Solvency II allows insurance companies to use internal models for the calculation of capital requirements after approval by the supervisory authority. For that purpose, the insurer has to forecast the probability distributions for the relevant risks. Similar rules apply to the data used in the probability distribution forecast in the context of internal models as for the valuation of liabilities towards policyholders[18].

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[18]↑ See Article 231 of Commission Delegated Regulation (EU) 2015/35.

Question 38: Beyond the general rules on the use of data, should Solvency II rules explicitly require insurers to assess whether the data used in an internal model captures sufficiently trends caused by climate change?

- [x] Yes, and requiring this assessment is of high importance
- [ ] Yes, and requiring this assessment is of medium importance
- [ ] Yes, but requiring this assessment is of low importance
- [ ] No
- [ ] Don't know/no opinion

Scenario analysis

Scenario analyses are common practice for insurers' risk management to challenge the plausibility of balance sheet valuation and the level of capital requirements. EIOPA also recently recommended that insurers should conduct analyses of climate scenarios as part of their risk management.

Question 39: Should Solvency II rules for insurers explicitly require climate scenario analyses as part of the qualitative rules ("Pillar 2")?

- [x] Yes, and climate scenario analyses are of high importance
- [ ] Yes, and climate scenarios analyses are of medium importance
- [ ] Yes, but climate change scenario analyses is of low important
- [ ] No

Don’t know/no opinion

Please explain what opportunities and challenges you foresee for the insurance industry when it comes to climate scenario analyses including, for example, whether standardisation of these scenarios would be useful:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

This is already implicitly required as part of the existing risk management framework: emerging risks have to be considered and also their effects reported, e.g. in the ORSA. Exposure to climate risk will depend on the nature of the business written by each insurer. Nevertheless, there should be some consideration of such risks in the ORSA – perhaps initially on a qualitative basis and on a quantitative basis where risks are material.
Scenarios are only helpful, if these are accurately fitting the business of the insurer. A standardisation of stresses maybe useful for firms who don’t have the data to calibrate their own stresses.
Undertakings having a database that allows the calibration of their own stresses, should have the option to use these as the ORSA is meant to reflect a company’s own assessment.

Impact underwriting

EIOPA recently suggested that insurers engage in ‘impact underwriting’, whereby insurers develop new insurance products, design and price products with the aim to contribute to adaptation to and mitigation of climate change without disregard for actuarial risk-based principles of risk selection and pricing.

Question 40: In your view, does Solvency II contain rules that prevent the practice of impact underwriting by insurers?

- Yes
- No (selected)
- Don't know/no opinion

Question 41: Do you have proposals for changes others than those provided in your answers to Question 5 and Questions 36 to 40 that would make Solvency II a more conducive framework for sustainable activities by insurance and reinsurance companies?

3000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

No. Risk has to be considered in any of these activities. Insurers need a long-term perspective aligned with the obligations towards policyholders. This is an indispensable requirement. Hasty reactions should be avoided. Strengthening the business without to many prescriptions together with the disclosure requirements as required by the Sustainability Financial Disclosure Regulation (SFDR) should be sufficient.

B. Challenges arising from digitalisation and other issues

While this consultation serves to prepare the review of Solvency II, the European Commission organised between 19 December 2019 and 19 March 2020 a consultation on the need for legislative improvements to make the financial sector more secure and resilient against cyberattacks[19].

In addition, the European Commission is also preparing a new Digital Finance Strategy for Europe that sets out strategic objectives that should guide public policy in the coming five years. This new strategy planned for the third quarter of 2020 will build on the work carried out previously, in particular in the context of the FinTech Action Plan. It will take into consideration all the recent market and technological developments that are likely to impact the financial sector in the near future. A separate public consultation[20] took place between 3 April 2020 and 26 June 2020.

Insurance companies increasingly rely on Big Data analysis in order to set prices and customise insurance product offering for policyholders. While such innovations could provide some potential benefits to policyholders, they also raise questions about privacy, discrimination, fairness and exclusion.

In the context of the digitalisation of the economy, cyber risk has gained increasing relevance as one of the main – if not the top – operational risks faced by organisations. The increasing frequency and sophistication of cyber-attacks and the continued digital transformation and use of new technologies also make insurers increasingly exposed to cyber threats. In addition, there is a rising demand by businesses and individuals for insurance protection against internet-based risks, for instance to cover losses from data or network security breaches, and theft of intellectual property (so-called "cyber-insurance"). While insurers have to be granted authorisation for conducting business in various "classes" of insurance, there is no specific authorisation process (or dedicated reporting requirements) for cyber-insurance products.

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[19]↑ More information on the public consultation on the need for legislative improvements to make the financial sector more secure and resilient against cyberattacks.

[20]↑ More information on the public consultation on a new digital finance strategy for Europe.

Question 42: Should the European legislation introduce enhanced requirements for insurers to monitor and manage information and communication technology (ICT) risks, including cyber-risks as part of their risk management practices ("Pillar 2")?

- (selected) Yes
- No
- Don't know/no opinion

Please specify your answer to Question 42:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Although this should already be addressed in the operational risk assessment, it should further be explicitly dealt with in the undertaking's ORSAs. The implementation of a specific cyber risk policy could be considered.

Question 43: Should the European legislation consider that cyber-insurance is a distinct class of insurance, which would need to be subject to its own authorisation process by public authorities?

- ○ Yes
- ◉ No
- ○ Don't know/no opinion

Insurance companies may decide to conclude an agreement with another entity (for instance a FinTech company), by which the latter performs certain activities, which would otherwise be performed by the insurance company itself (for instance, in relation to IT services).

Insurance companies can also outsource these activities to another entity belonging to the same insurance group. Solvency II does not differentiate intra-group and extra-group outsourcing, in terms of requirements. Some stakeholders claim that intra-group outsourcing, in particular in the area of digital services, should be “lighter”, as insurance groups are treated and managed as integrated economic entities and are subject to all Solvency II requirements on a consolidated basis.

Question 44: Should the legislation differentiate intragroup and extra-group outsourcing, and introduce “lighter” requirement in the former case?

- ○ Yes, but the lighter requirements should be conditioned to the satisfaction of some criteria at the level of the group, for instance appropriate centralised risk management processes and internal control mechanisms of the group
- ○ Yes, and those lighter requirements should not be conditioned to any additional criterion
- ◉ No
- ○ Don’t know/no opinion

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) here:

Please upload your file

The maximum file size is 1 MB.

You can upload several files.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Useful links

More on this consultation (https://ec.europa.eu/info/publications/finance-consultations-2020-solvency-2-review_en

Consultation document (https://ec.europa.eu/info/files/2020-solvency-2-review-consultation-document_en)

More on Solvency II (https://ec.europa.eu/info/business-economy-euro/banking-and-finance/insurance-and-pensions/risk-management-and-supervision-insurance-companies-solvency-2_en)

Specific privacy statement (https://ec.europa.eu/info/law/better-regulation/specific-privacy-statement_en)

More on the Transparency register (http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)

Inception impact assessment (https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12461-Review-of-measures-on-taking-up-and-pursuit-of-the-insurance-and-reinsurance-business-Solvency-II-#publicatio details)

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