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Consultation paper on EIOPA Statement on supervision of run-off undertakings

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CONTEX AND OBJECTIVES

2.1. Run-off business model – when properly and fairly managed – can potentially bring benefits to the insurance market, for instance by making possible to use capital to support more profitable business, enabling cost reduction or orderly exit from the market. It can also be a pre-emptive measure to avoid materialisation of risks with impact on new policyholders.

1800 character(s) maximum

It should be noted that in this regard due to cost reduction and reduction of complexity the run-off business model can even be advantageous to the policy holder as well.

2.2. At the same time, supervision of run-off undertakings/portfolios is particularly challenging because of the specific risk profile, the difficulties of the process and assessment of the change of and the lack of specific regulation on run-off in the Solvency II framework. Understanding the motivation to discontinue the business is also very important.

1800 character(s) maximum

The structure of the document makes it unclear which sections apply to which situation (partial run-off, full run-off, specialised run-off undertakings other than Private Equity, Private Equity) plus the "distance" of the transfer/acquisition compared to the original situation (see 3.1 below).
Clearly, Solvency II regulation is intended to be risk and principle based. -Hence, the specific risks, details in modelling, parameters for the valuation of the technical provision may be different but the general methodology and regulatory requirements are the same.
Thus, we don't see any need for specific regulation on run-off undertakings/portfolios in the Solvency II framework. However, it should be supported that the supervisory authority understands the motivation, procedure, measures and design of run-off companies. Additionally it is very important that run-off undertakings identify and manage operational risks, especially concerning IT systems (adjustments after life cycle).

2.3. The number and size of run-off portfolios are increasing and a growing interest has been observed from investors in acquiring such portfolios.

1800 character(s) maximum

Some undertakings are outsourcing the administration of the portfolio – so-called third party administration (TPA). The insurance risk remains in the undertaking whereas the administration of the policies is done by an external provider. This is regulated by the well-known requirements for outsourcing.

2.4. The aim of this Supervisory Statement is to ensure that a high quality and convergent supervision is applied to run-off undertakings/portfolios, subject to Solvency II, taking into account their specific nature and risks.[1]

[1] In this context, EIOPA advised European Commission to amend the Solvency II framework with regard to the expenses assumptions considered in the calculation of technical provisions of undertakings not underwriting new business (see section on expenses of the EIOPA's Opinion on the 2020 review of Solvency II).

1800 character(s) maximum

2.5. This Supervisory Statement sets out supervisory expectations for the supervision of run-off undertakings in the context of portfolio transfers, acquisitions of qualifying holdings and mergers (ownership changes) as well as in the on-going supervision. It addresses some issues that are not exclusive to run-off undertakings/portfolios, however, experience has shown that some issues may lead to stronger and more concerning consequences in that context.

1800 character(s) maximum

2.6. This Supervisory Statement should be read inter alia in conjunction with EIOPA Guidelines on system of governance[1], EIOPA Guidelines on basis risk[2], and Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector[3] as well as EIOPA's Approach to the Supervision of Product Oversight and Governance[4].

[1] https://www.eiopa.europa.eu/content/guidelines-system-governance_en
[2] https://www.eiopa.europa.eu/content/guidelines-basis-risk_en
[3] https://esas-joint-committee.europa.eu/Pages/Guidelines/Joint-Guidelines-on-the-prudential-assessment-of-acquisitions-and-increases-of-qualifying-holdings-in-the-banking,-insuranc.aspx
[4] https://www.eiopa.europa.eu/content/eiopa-approach-supervision-product-oversight-and-governance_en

1800 character(s) maximum

We agree that it is key that any new guidelines and regulations be considered in the context of the wider governance regulations of Solvency II.

DEFINITION OF RUN-OFF

3.1. The term "run-off" describes a variety of situations where the insurance undertaking has stopped underwriting new business. The term run-off undertaking may refer to different cases:

1) Undertakings running-off a portfolio of contracts not representing their whole business (partial run-off undertakings or undertakings with run-off portfolio);
2) Undertakings running-off their whole (previous) business (full run-off undertakings);
3)Undertakings with a run-off business model (specialised run-off undertakings).

1800 character(s) maximum

The location of business might necessitate a different supervision approach;
- National
- EU
- Outside EU with third country equivalence
- Outside EU with no equivalence

The definition of run-off is more complex than described in the 3 points
There is a difference between the following kinds of portfolios of contracts:
i. no more premiums will be paid (full run-off)
ii. premiums are still paid due to contractual conditions (with contractual guarantees on these future premiums - integrated in the contract boundaries) (almost full-run-off)
iii. premiums can still be paid with new liabilities of the insurer(no contractual guarantee on these future premiums - included or not included in the contract boundaries), such as contracts with flexible premiums or universal life (partial run-off)
iv. premiums can be paid with new liabilities of the insurer (no contractual guarantee on these future premiums - integrated or not integrated in contract boundaries), such as future premium increases due to salary increases or new premiums of new members in group insurance contracts of the 2nd pension pillar (partial run-off).
Even in case of a run-off of a sub portfolio there might be a strong linkage with the segments open for new business (e.g. profit participation, common base of assets covering the liabilities etc.). In this case ab "run-off" of a collective whose customers are connected via such mutual interrelations is only present if no new business is written into this sub portfolio which is required by legal or contractual obligations Instead of partial run-off, we can then speak of a full run-off of a partial portfolio. We suggest to clarify the definition.

3.2 Partial run-off undertakings are undertakings where only part of the business is discontinued while the rest of its business is in going concern. For the purpose of this Supervisory Statement, partial run-off refers to the cases where a material part of the undertaking's business is stopped (i.e. it excludes the cases where a minority of non-material products/line of business is discontinued).

1800 character(s) maximum

This definition seems quite broad and vague in terms of how materiality is defined. Would it be better to only include partial cases where the decision creates a question in relation to the Company's strategy for fulfilling its obligations?
'Minority' is open to interpretation and so more clarity would be appreciated.

It should also be clarified what is considered to be partial run-off in context of this paper. As defined in this paragraph the term partial run-off is linked to any discontinued business. If considered on the level of tariffs, it is quite common that there is a material part of the business portfolio subject to tariffs which are no longer offered to the market.
In our understanding such business would not be considered as run off as long as the same product or the corresponding line of business is still open for new business. The definition of partial run-off is unclear and not useful – for both Life and Non-Life.

3.3. Full run-off undertakings are undertakings with legacy portfolios, typically showing a downward trajectory in terms of technical provisions and the own funds and Solvency Capital Requirement (SCR). Not issuing new insurance policies means that the profitability of the business comes only from the management of the existing business[1]. This business model is generally associated with an active management of the technical provisions, cost reduction measures and/or altering the investment portfolio in a 'search for yield'. This could be also done in cooperation with external parties, ranging from consulting to outsourcing activities to spinning off operating activities.

[1] Run-off undertakings can change the underwriting and/or investment assumptions, initially considered at the inception of the contract (i.e. profit test), if and to the extent that there is margin for keeping the contracts profitable.

1800 character(s) maximum

This wording seems to imply that assumptions can only be changed for profitable business. We assume it should be permissible to change assumptions for loss making business also to reflect the new situation e.g. different expected expenses.

3.4 Specialised run-off undertakings are undertakings or groups whose business model is to actively acquire legacy portfolios or undertakings in run-off. Besides the measures taken by full run-off undertakings they seek to realise scale efficiencies by maintaining or increasing the size of their run-off book.

1800 character(s) maximum

The business model described is connected with legal actions in the future, i.e. acquisitions and/or transfers of portfolios. In many jurisdictions such type of transactions are subject to regulatory approval (e.g. "Inhaberkontrollverfahren" in Germany). This constitutes a major difference compared to new business written under an insurance license in a going concern situation. This should be considered appropriately.

3.5. This Supervisory Statement addresses risks related to all the three cases above, while recognising at the same time the difference between them.

1800 character(s) maximum

3.6. Insurance undertakings which are subject to reorganisation measures or winding-up proceedings[1] are not considered in this Supervisory Statement.

[1] See respectively Articles 269-272 and 273-284 of Solvency II.

1800 character(s) maximum

In some European markets there are national insurance guarantee schemes, whose concept is to transfer portfolios in case of a needed winding-up to insurance companies which have been set up just for this purpose.
In Germany, for example, this is the case for life insurance business via Protektor Lebensversicherungs AG.
We suggest to exempt such cases and the respective insurance companies from the Supervisory Statement as well.

DECISION TO GO INTO RUN-OFF

4.1. Undertakings which intend to stop writing any material new business, leading to partial or full run-off undertakings, are expected to notify their supervisory authorities (as part of the on-going dialogue) by submitting:
- the decision of the administrative, management or supervisory body (AMSB) to run-off their part/whole business including the motivation for putting the business into run-off;
- the description of their strategy to manage their remaining business, if applicable, including how products will be monitored and reviewed, and how adequate customer service will be maintained;
- the financial projections of their assets, technical provisions, own funds and capital requirements, including the description of the underlying assumptions (in particular technical provisions) and – where appropriate – appropriate scenario and stress tests;
- the material reinsurance and outsourcing arrangements expected in the future;
- impact, if any, with regard to key staff retention;
- impact, if any, on costs and charges for existing policyholders belonging to the run-off portfolio.

1800 character(s) maximum

As part of the on-going dialogue of the company several reports are already provided to the supervisor. Some of these (i.e. ORSA, RSR, risk reports) can already be used as a basis. On a national level additional reports e.g. requested by local GAAP accounting, are available. Based on these specific information should be required with a sense of proportionality.
Regarding the listed documents:
• When is notification expected to take place – before or after the decision on stopping writing new business has been made?
• What powers do supervisors have once notified – can they prevent certain decisions being made?
• A proportional approach should be taken here with only a subset of information required depending on the specific situation in question.
• For how long into the future are financial projections expected. As the level of uncertainty increases a very long projection period can lead to spurious accuracy.
• When might stress and scenario tests be deemed appropriate – will companies have the power to decide on appropriate stresses?
• When could an ad-hoc ORSA and an analysis of the impact on the existing contracts be necessary?

To consider: Regulations of general interest might remain applicable to some LoBs in some countries (e.g. group insurance and work accident in Belgium). For example, for group insurance contracts of the 2nd pension pillar, the insurance company is also a pension institution (within the social regulations) and has to respect social and tax regulations, even if it decides to put its portfolio in run-off (calculation of the social vested rights, declaration of the vested rights to the data bank on the supplementary pensions, benefits with tax deductions,..).
We suggest that the listed requirements should be marked as examples.

4.2. The decision to stop writing any material new business is considered material information and therefore needs to be reflected in the Solvency and financial condition report. If taken in between publications, such an event should also be considered a major development affecting significantly the relevance of the information disclosed and should trigger an up-date of the Solvency and financial condition report.

1800 character(s) maximum

We agree that the information to stop writing new business is material. But we don't think that this should cause immediately an ad-hoc SFCR because the information, especially in case 3) of the full run-off, should be spread after conclusion of the contracts (sale, purchase, outsourcing, service level agreement ...). An earlier information would disturb the negotiations concerning the contracts.

4.3. In case of cross-border run-off, home and host NCAs should cooperate and exchange any information at their disposal which could affect policy holders' rights.

1800 character(s) maximum

The term "cross-border run-off" should be included in the definition section further above. We would welcome more details on cross-border insurers in this document.

4.4. In case of cross-border run-off, specific areas of potential risk are for example, partial knowledge of the products and market trends, communication with the new insurer or reinsurer, lower power of the customers to submit claims. Moreover, when specific consumer protection obligations (e.g. ongoing disclosure requirements or complaints handling) are a competence of the host supervisory authorities with specific national requirements, the host supervisory authorities should contribute to the assessment of whether the acquiring/accepting undertaking is compliant with these requirements.

1800 character(s) maximum

SPECIALISED RUN-OFF UNDERTAKINGS THROUGH ACQUISITION OF AN INSURANCE UNDERTAKING OR TRANSFER OF PORTFOLIO

Early dialogue

5.1. The assessment by the supervisory authority of an acquisition of a run-off undertaking/portfolio or a transfer of a run-off portfolio relies on accurate and timely information from the undertaking involved.

1800 character(s) maximum

We understand that those paragraphs apply on top of the global requirements in case of shareholders specialised in the run-off business of insurance portfolios.
It should be noted that IFRS3 makes a distinction between business combination and portfolio transfer. We recommend investigating whether this should also result in a different supervision approach.

5.2. The potential acquirer/accepting undertaking is encouraged to have an early dialogue with the supervisory authority before submission of the formal notification on the acquisition of a qualifying holding or on the transfer of portfolio in accordance with Article 57 or with Article 39 of Solvency II respectively. The undertaking intending to acquire a run-off portfolio is encouraged to provide the supervisory authority the information defined in point 4.1 as well as an external actuarial report assessing the adequacy of technical provisions related to the portfolio transfer.

1800 character(s) maximum

When is the external actuarial report required? The wording refers to, “The undertaking intending to acquire a run-off portfolio.” which could be taken to imply a report is needed very early in the process before a high-level sale agreement is put in place. Such a requirement creates additional barriers to progressing with such transactions and will increase the costs for those involved, without necessarily enhancing protection for policyholders.
In Ireland, for life assurance transfers there is a concept of an independent actuary, but their report is needed only as part of a court approval process which is the last step in the process when other terms have been agreed. We note that the independent actuary’s review likely implicitly includes an assessment on the adequacy of technical provisions, and that there would also typically be an internal assessment of the technical provisions. Would that suffice here? Otherwise, could two separate external reports be required at different times – this would appear to be overkill?
We suggest that the requirement for this assessment to be external be removed; alternatively, should there remain a preference to require an external assessment, we propose that the independent actuary’s review noted above should be considered sufficient in this regard.
Actuarial und risk reports written by the key functions (AF, RMF) within the companies could fulfil such required analysis. - Actuarial reports would comply with relevant standards of the actuarial profession. Such standards require appropriate level of documentation to enable third party experts to come up with their own judgement.

5.3. The financial projection period, including own fund and SCR figures, should be commensurate with the duration of the insurance liabilities. If the technical provisions are of long-term nature, the default projection period of 3 years envisaged in the above mentioned Joint Guidelines should be extended to an appropriate horizon which can be as much as 15 years or more. If the contract benefits are based on local GAAP parts of the forecast may follow the same accounting principles (e.g. profit and loss statements, dividends).

1800 character(s) maximum

A 15-year horizon or more might not necessarily be relevant given uncertainty.
Depending on the risk profile and the contract period the respective national supervisory authority should suggest an appropriate projection horizon case by case.

Identification of the risks of the acquisition / transfer of portfolio

5.4. In order to perform an in-depth analysis of the proposed transaction supervisory authorities are recommended to assess in detail the documentation received as a first step and request the undertaking any further information deemed necessary.

1800 character(s) maximum

5.5. To perform an in-depth assessment of the risk of the transaction it is vital to assess the financial soundness of the acquiring/accepting entity and the impact on policyholders from both the ceding and the acquiring/accepting undertaking. For an appropriate assessment, supervisory authorities need to develop a comprehensive understanding of the business model pursued by the acquiring/accepting party and the expected changes on its risk profile, system of governance – including product oversight and governance – risk management and solvency position (both SCR and own funds) after the acquisition. This is also relevant when the acquirer of the undertaking is identified as an insurance holding company and is subject to group supervision according to Solvency II[1]. The economic situation of the undertaking is usually strongly dependent on the financial strength of the group and its ability to provide support in the event of a loss. For example, when an external run-off is pursued existing intra-group transactions such as outsourcing contracts, profit-and-loss transfer agreements, reinsurance and subordinated loans are usually terminated.

[1] Holding companies whose main business is to acquire and hold participations in subsidiary undertakings which are exclusively or mainly insurance undertakings.

1800 character(s) maximum

Is it envisaged that supervisory bodies will develop “a comprehensive understanding” based in the information listed in 4.1 above? Will supervisors have the power to request additional material and ask further questions?

Could this requirement be updated to refer to a group’s "ability and commitment to provide support". In some cases a Group may not be willing to support an undertaking and a commitment to support might be needed to ensure the economic situation of the undertaking is positive.
We would recommend specifying what the alternative for solvency position is if the acquirer is not subject to SII.

5.6. The protection of policyholders should be one of the main objectives of the assessment and it should not be impaired by the transaction. It is an important issue in case of ownership changes, as the supervisory authority has to assess whether the undertaking will be able to comply with the prudential requirements laid down in Article 59(1)(d) of Solvency II.

1800 character(s) maximum

5.7. If the transaction affects the recoverability or amount of the claims, the supervisory authority may request the acquirer to make additional commitments suitable to safeguard the interests of policyholders (e.g. loss transfer agreement). If there are justified doubts about the financial capacity of the acquirer or its credit rating cannot be reliably assessed, the supervisory authority may ask the acquirer to provide collateral to back up the commitment (e.g. bank guarantees).

1800 character(s) maximum

5.8. One important assessment is to verify if the risk profile of the acquiring/accepting undertaking, after including the new portfolio/undertaking, is in line with its risk appetite and does not go beyond the risk tolerance and its risk bearing capacity.

1800 character(s) maximum

5.9. It is also important to assess whether the acquiring/accepting insurance undertaking's product oversight and governance policy has adequate system and controls aimed at mitigating possible risks which can emerge for the 'acquired'/'accepted' target market, taking into account the product characteristics of the acquired portfolio. If needed, the acquiring/accepting undertaking should have its own product oversight and governance policy adjusted and aligned with the acquired/accepted portfolio. It should also carry out the product monitoring and review as part of the product oversight and governance process for the acquired/accepted portfolio.

1800 character(s) maximum

It would be useful to note that a proportional approach could be justifiable here with less monitoring needed as the business runs off.

5.10. From an operational perspective, supervisory authorities should pay attention to the ability to service the liabilities, in particular the long-term ones, and the capacity of administration of the policies, which usually requires sophisticated contract management systems. In addition, supervisory authorities should assess how the undertaking ensures that claims will be settled in accordance with the contract terms. Especially for with-profit-business, supervisory authorities should ensure that the policyholders' share (i.e. future discretionary benefits) will not be unreasonably reduced and are broadly in line with the previous policy of the ceding undertaking and the reasonable policyholder expectations.

1800 character(s) maximum

For this special case it is important to reflect peculiarities of European countries and their regulation. In most cases, it is an illusion to believe that Profit Sharing will not be significantly reduced. The situation can differ between countries:
Belgium: For contracts invested in the general fund, the profit-sharing which comes in addition to the guaranteed rate is discretionary. The General Assembly of the insurance company may therefore unilaterally decide to no longer allocate a profit sharing.
On the other hand, for contracts invested in dedicated asset funds, the allocation of the profit sharing is contractual. A company that places a portfolio of contracts invested in a dedicated asset fund in run-off must therefore continue to respect its contractual obligations. The same applies to a company that takes over this portfolio of contracts.

Germany:
The appointed actuary as an independent control function has to ensure policyholder's adequate participation in future surplus. Since the acquired portfolio has to be valued in a new environment (especially no new business anymore) the appointed actuary recognizes the need to adapt (reduce) policy holder participation. This role of the appointed actuary has to be considered.

Thus, we suggest to add in this sentence in the end 'considering country-specific regulations'.

5.11. Supervisory authorities should also ensure, in particular for long-term products, that the acquiring /accepting undertaking, throughout the lifetime of the acquired/accepted portfolio, has the ability to take remedial measures when as part of the monitoring process it emerges that a certain product’s main features (e.g. risk coverage or guarantees being materially impacted) cause detriment to the policyholders.

1800 character(s) maximum

5.12. Private equity or similar investment entities are developing a growing interest in acquiring run-off undertakings. Since their investment horizon is usually shorter than more traditional shareholders, there is a risk that capital is pulled out of the target undertaking with potential negative impact on policyholders protection. To prevent this, supervisory authorities should consider the track record of the involved private equity party and assess the possible consequences of an early withdrawal from the investment. In the case of undertakings providing financial guarantees, investors should not be privileged with regards to profit and losses in the near future to the detriment of policyholders with longer contract terms.

1800 character(s) maximum

The term “track record” is quite vague. It would be useful to clarify what would be taken into consideration. Also, some newer entrants might not have a track record so wording should be updated to ensure there is no barrier to entry for such firms.
As an additional point, we would note that, within Ireland, engagement with the supervisory authority is typically required before dividends are paid. Such a process would give supervisors, more broadly, the ability to ensure that capital is not pulled out of the target undertaking in such a way as to jeopardise policyholder protection.

Involvement of private equity or similar investment entities

5.12. Private equity or similar investment entities are developing a growing interest in acquiring run-off undertakings. Since their investment horizon is usually shorter than more traditional shareholders, there is a risk that capital is pulled out of the target undertaking with potential negative impact on policyholders protection. To prevent this, supervisory authorities should consider the track record of the involved private equity party and assess the possible consequences of an early withdrawal from the investment. In the case of undertakings providing financial guarantees, investors should not be privileged with regards to profit and losses in the near future to the detriment of policyholders with longer contract terms.

1800 character(s) maximum

5.13. From an operational perspective, private equity tends to increase shareholder returns by making changes to the undertaking’s operations potentially in four main areas:
a. changes in the asset allocation to increase the investment returns;
b. operational changes in order to reduce the cost base of the undertaking;
c. changing the methodology and/or certain underlying assumptions for the valuation of technical provision;
d. changing the methodology and/or certain underlying assumptions for the calculation of capital requirements.

1800 character(s) maximum

The control approach should be different in a proportionate way to avoid regulatory arbitrage and a different protection level of policyholders in line with SII philosophy.

5.14. Private equity investors may seek to increase the return on their investments and thus supervisory authorities should consider the followings:
- if policies with profit-sharing are affected, supervisory authorities should assess if the transaction leads to an unbalanced distribution of risk and reward. To assess whether there is such an imbalance, supervisory authorities can ask the investor to provide expected risk-adjusted return figures of the transaction. In any case, there should be neither erosion of the undertakings' substance and earning power nor an erosion of policyholders returns for with profit participation business or an increase in any 'undue' costs charged to policyholders;
- if leverage is used to finance the acquisition, the acquirer is to show its ability to serve the debt or refinance any remaining amount at maturity even under unfavourable economic conditions (e.g. by reverse stress tests).

1800 character(s) maximum

5.15. Additional guidance with regard to supervision of investments are reported in the sub-section "Assessment of the Investment strategy".

1800 character(s) maximum

5.16. Private equity investor may be able to reduce fixed costs by realizing some efficiencies in the operational processes, acquiring/accepting other run-off portfolios/undertakings or making extensive use of outsourcing arrangements. The supervisory authority should assess:
- Whether the private equity investor estimates a minimum amount of fixed costs which are needed to running any undertaking (above all when the size of portfolio is small and doesn't allow to spread fixed costs over a large amount of policies);
- The return on investments are higher than costs;
- In case of outsourcing, the private equity investor can demonstrate that they are able to manage and oversee the activity of service provider(s) and the extensive use of outsourcing doesn't lead to new major operational challenges or risks.

1800 character(s) maximum

Ensuring sufficient workforce until effective transfer should be applicable to any situation and not only PE. Furthermore it should be ensured, that the IT-systems guarantee a sufficient service level and a reliable administration. Therefore the appropriateness of the IT infrastructure should be taken into account.

5.17. Specific guidance on technical provisions and capital requirements are reported in the relevant sub-sections.

1800 character(s) maximum

This paragraph is not clear as to which sections apply to Private Equity

5.18. Furthermore, experience has shown that legacy platforms backed by private equity are often embedded in complex group structures making it difficult for the supervisory authority to gauge the impact of power shifts and changes in the outsourcing environment. In some cases, ownership changes extends to more than one entity, even from other countries or financial sectors, so it may be necessary to consult with several authorities.

1800 character(s) maximum

5.19. With regard to dividend and coupon payments, the supervisory authority needs to carefully examine the funding structures involved to improve the predicted return on equity (RoE) and the time horizon in relation the RoE. Furthermore, the return expectations communicated to the investors need to be realistic.

1800 character(s) maximum

ON-GOING SUPERVISION

6.1. This section may be also relevant for the assessment reported on the previous sections.

1800 character(s) maximum

We identify here a potential issue of level-playing field: a differentiated approach could only be justified in case of higher perceived risk following an assessment.

Business model analysis

6.2. In order to perform a proper risk based supervision and in addition to the assessment conducted prior the decision to go into run-off (section 4) and the business model analysis done in case of acquisition of a run-off undertaking/portfolio (section 5) supervisory authorities should perform a business model analysis as part of the on-going supervision[1]. In this analysis there should be a specific focus on how the undertaking is expected to remain profitable in the near future, whilst also ensuring the compliance with Solvency II rules relating to technical provisions/SCR and the fair treatment of policyholders. It should be also looked at which are the main sources of current and expected profitability (e.g. the assumption used in the calculation of the technical provisions, the possible change of the investments and reinsurance strategy, the improvement of efficiency of the management of the business, through reduction of costs, outsourcing, etc).

[1] The ex-post business mode analysis should be conducted following a risk-based approach. For instance, if supervisors had already assessed the business model of the undertaking intending to acquire a run-off undertaking or portfolio, it is not expected to conduct a full business model analysis if the risk profile hasn’t changed.

1800 character(s) maximum

6.3. Generally, the focus of a non-life run-off undertaking will be on the claims provisions, by handling the claims in a more 'efficient and effective' way to increase the technical profit (underwriting results). Efficiency, however, should not lead to the unfair treatment of policyholders.

1800 character(s) maximum

6.4. The life run-off undertaking might however try to optimise both underwriting and investments results, by investing in higher yielding (but also riskier or more illiquid) assets.

1800 character(s) maximum

6.5. From an operational perspective undertakings might try to save costs through a more effective management in the form of modern IT systems, outsourcing, etc. Supervisory authorities should assess if the methods/approaches used to reduce costs do not raise other risks. By way of example, the migration of insurance contracts to a new IT platform and other administrative changes can significantly increase operational risks, which should be reflected in the ORSA.

1800 character(s) maximum

We agree that Operational Risk may be introduced in the short term but that such decisions can have long term benefits. We would suggest that the potential benefits should also be acknowledged rather than focusing solely on risks.
We think that the description concerning IT platform doesn't cover all aspects. In the case that IT systems already include operational risks a new IT platform could reduce operational risk, especially in the context of third party administration. Apart from that the life-time-cycle of the IT systems has to be analysed. The analysis should include considerations whether the current IT-system is appropriate to be used until the termination of every contract (especially in life insurance business covering many decades in the future).
One result of the business model analysis should be a solid strategy for IT systems in order to guarantee a service level and the long-term administration of contracts. Generally, a migration to a new IT platform will be necessary when the current system comes to the end of its lifecycle. The cost-benefit consequences of such effects should be reflected adequately in projections

Assessment of technical provisions

6.6. According to Article 7 of Commission Delegated Regulation (EU) 2015/35[1] (Delegated Regulation) insurance and reinsurance undertakings are required to value assets and liabilities based on the assumption that the undertaking will pursue its business as a going concern. It is important to point out that also undertakings in run-off fall under this definition if they continue to settle their claims. However, the decision to discontinue (parts of) the insurance business may be associated with a change of the financial and non-financial assumptions of technical provisions calculation. If insufficient evidence is shown and the supervisory authority concludes that the technical provisions underestimate the future obligations, the supervisory authority should ultimately consider using the power under Article 85 of Solvency II and require an increase of technical provisions or, in case of deviation of the risk profile, to set a capital add-on in accordance with Article 37 of Solvency II.

[1] Comission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138 /EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 12, 17.1.2015, p. 1).

1800 character(s) maximum

A distinction should be made between life and non-life activities given their long-term nature and objective of fair treatment of policyholders.

6.7. Supervisory authorities should assess if the going concern assumptions regarding the run-off are reasonable and realistic, including but not limited to administrative expenses, lapse/surrender rates, asset mix and future management actions.

1800 character(s) maximum

Expenses

6.8. Undertakings writing new business can offset their cost loading per policy through new business[1]. However, this will usually not be possible in case of run-off undertakings because there will be no new business[2]; at the same time, the business reduction might also imply a reduction of some expenses but also the increase of other expenses related to business reduction (e.g. severance payments). The off-setting of cost may be possible for specialised run-off undertaking that will have new business via portfolio transfers or acquisitions, even if specific assumptions should be required in this case (e.g. consider the possibility that they may not be able to acquire new portfolios). It is important that supervisory authorities make sure that the “non-scalability" is properly addressed in the calculation of the technical provisions.

[1] A common practice is to model the (nominal) costs per policy as a fixed percentage of premiums or a fixed percentage of benefits in case of single premiums (as is for instance the case with direct annuities).
[2] Going concern principle does not require to assume new business will be written in the future. Assumptions should always be realistic, which includes the cases where the undertaking is no longer writing new business. For more details, please see EIOPA Q&A 1037.

1800 character(s) maximum

With regard to 6.8. we would like to reference also the ongoing consultation on TP guidelines (CONSULTATION PAPER ON THE REVISION OF THE GUIDELINES ON VALUATION OF TECHNICAL PROVISIONS) and in particular what guideline 33 and the associated explanatory text say about expenses for companies in run-off.
Expenses adjustments should ensure that overhead w.r.t. support functions is still included at an appropriate level.

For run-off undertakings expenses and their management are very important and crucial for the development of the undertaking.
Costs per policy can be reduced concerning existing IT systems which produce only low current expenses. The life-time-cycle of IT systems (renewing the systems) should be analysed. This could lead to a reduction of administration costs through staff reduction or hold the administration costs constant. The costs of renewing the IT systems should be considered and balanced with the reduction of personnel costs.

Another aspect: Run-off undertakings as part of group structure where the main carrier still underwrites new

business will lead also to scalability of costs via appropriate cost allocation.
The run-off business models described are connected with the future acquisition/transfer of new portfolios. However, in many jurisdictions such transactions are subject to regulatory approval (e.g. "Inhaberkontrollverfahren" in Germany). This should be considered appropriately.

6.9. This may require envisaging future management actions beyond the expenses framework. For example, at a certain point in time it may not be economically viable to continue the business operation any longer with respect to the overwhelming fixed costs. Undertakings need to provide adequate justification on how this is reflected in the calculation of the technical provisions. Whether the projection horizon can be cut off at this point depends on realistic management actions regarding the transfer of the remaining obligations.

1800 character(s) maximum

Should there be something added here to reflect how policyholders' interests will be protected if it is not economically viable to continue the business operation. This could result in an extra outlay at that point. Should there also be a reference to the time it might take to implement management actions at that point?

Insurance companies as a part of an insurance group can try to handle the fix cost problem via group-internal outsourcing of special tasks. Using these efficiencies inside an insurance group helps to handle the long term cost problems, especially within a group, where other legal entities still write new business.

Lapse

6.10. While in principle run-off undertakings are expected to have an interest in maintaining their existing contracts[1], certain run-off undertakings may try, as part of their business model, to advise policyholders to lapse or cancel their policy. Supervisory authorities should assess and detect such cases and ensure that undertakings treat their policyholders fairly and are acting in their best interest. In particular, supervisory authorities should ensure that if lapses/switches from one product to another occur, this is done in the best interest of policyholders and not to generate higher fees and/or to shift policyholders from products with guarantees to products where they are more exposed to market shocks. In assessing whether policyholders have been treated fairly, supervisory authorities should examine whether the new product towards which policyholders are directed are aligned with their characteristics, needs, and objectives and assess whether the existing policyholders fit within the target market for the new products.

[1] To keep their reputation high, not to lose cost advantages and not to face liquidity outflows.

1800 character(s) maximum

Is supervisory approval needed before lapse incentives are offered? The wording just refers to assessment.
We should avoid any confusion between lapse (incentives where the acquiring entity would actually make a profit) versus switch (where an equivalent product would be offered to the policyholder).
We agree that "encouragements" must not be to the disadvantage of the policyholder. Such an activity would lead to changes in lapse rates for a homogenous risk group concerned. This had to be considered in the calculation of technical provisions and in the report of the actuarial function as well. The likelihood for such an unfair treatment might not differ between a run-off undertaking and an undertaking writing new business.

6.11. Furthermore, supervisory authorities should assess whether the risk of higher surrenders or lapses caused by loss of reputation is reflected in the calculation of technical provisions.

1800 character(s) maximum

The development of surrenders and lapses will be observed over time. The risk of a change has to be assessed by the actuarial function and has to be considered appropriately. No further regulation seems to be necessary.

Future management actions

6.12. In case of portfolio transfer, merger or acquiring of qualifying holdings, the new owner might change the executive management, which could react differently to certain developments. The assumptions on future management actions should be reviewed and supervisory authorities should assess if they are in line with the new strategy.

1800 character(s) maximum

This is the standard procedure for needed for the calculation of the technical provisions. Nevertheless the new environment might necessitate a change of the assumptions.
Should there be a reference to the time it might take to implement management actions? Also, the viability of these actions, if there is a stressed environment, should also be considered.

Reinsurance recoverables

6.13. The impact of the cession of some insurance risks to the reinsurer will be accounted for in the Solvency II balance sheet of the ceding undertaking under reinsurance recoverables. It should be ensured by the supervisory authority that the assumptions underlying the recoverables are not overly optimistic and are in line with Article 81 of Solvency II and Articles 41 and 42 of the Delegated Regulation. If both the ceding undertaking and the accepting reinsurer are subject to Solvency II, it is expected that the reinsurance recoverables in the balance sheet of the ceding undertaking (before accounting for expected losses due to default of the counterparty) are broadly in line with the gross technical provisions (referred to the same obligations) in the balance sheet of the accepting reinsurer. It should be noted that the differences can be larger in some cases such as if the ceded business becomes part of a much larger homogeneous risk group e.g. for non-life.

1800 character(s) maximum

This commentary does not appear to be specific to run-off undertakings. Would this be better dealt with in a different consultation on valuation of assets and liabilities on the Solvency II balance sheet?

Comment on whole subsection (6.13-6.15): The topics addressed are of general nature and do not only apply to the run-off situation. EIOPA should consider to delete this part here and to address topics in a more suitable place.

Practically there will be always a different value of the reinsurance recoverable in the balance sheet of the ceding undertaking compared to that of the accepting reinsurer. This because of lack of information, different management rules and, as indicated, diversification effects. We suggest to change the expression "are broadly in line with" to "should be broadly in line with".
The assumptions used by the reinsurer to value the technical provisions may differ from those of the primary insurer. Thus, there are often factually justifiable deviations in the valuation of gross reserves and

reinsurance recoverable. This is the case, for example, if the reinsurer has more data or better data quality than the primary insurer. Therefore, such a reconciliation does not seem to make sense. In addition to the practicability considerations, there is the question of how companies should ensure that the valuation of insurance reserves is similar without disclosing business secrets, such as management rules. If necessary, it would have to be examined whether the reconciliation of assumptions is permissible under antitrust law.

6.14. The reinsurance recoverables typically are based on probability weighted cash flows assuming scenarios with and without the reinsurer's default. The cash flows under the scenario of a reinsurer default will be determined by the insolvency legislation the reinsurer is subject to, which is used to determine the recovery value. In case of a third country reinsurance undertaking, it is possible that the valuation of the recovery value is materially different from a valuation under the insolvency legislation the ceding undertaking is subject to. The assumed credit loss might therefore be lower than the actual loss due to these legal valuation differences before considering economic losses resulting from the defaulted reinsurer not having sufficient funds to reimburse the cedent. The supervisory authority should ensure that this additional credit risk resulting from valuation differences is accounted for in the assumption used to calculate the reinsurance recoverables (e.g. in the Exposure-at-Default and Loss-Given-Default assumptions).

1800 character(s) maximum

We need here to make sure that risk transfer programs to third country reinsurance undertakings do not lead per se to regulatory arbitrage.

6.15. Typically, the reinsurance recoverable is settled on a recurring basis based on the immediate past financial result or cash flow in a backward-looking manner considering the characteristics of the reinsurance treaty. In case of material reinsurance, the additional credit risk amongst others resulting from valuation differences can be limited by introducing a clause in the reinsurance treaty which settles the reinsurance recoverable if the position exceeds a predefined threshold. This would be a more forward-looking way of addressing possible credit risks and would ensure that the open position with respect to the reinsurance counterparty never exceeds a certain size.

1800 character(s) maximum

Such a change to an existing treaty is not something that is easily done and would be very difficult to look for after the treaty is agreed. Therefore, it's not clear why such a suggestion is outlined in the paper. Also, it is unclear why this requirement would be imposed just on reinsurers of undertakings in runoff
In non-cash RI contracts, liquid settlement is only provided for at the inception of the contract. Liquid settlement is not provided for such contracts.

Assessment of the Investment strategy

6.16. Run-off undertakings typically focus on increasing their investment returns. They can try to achieve this goal by investing in high yielding assets and/or non-listed assets. In this regard, two main investment strategies can be identified:
- shift to a higher risk / return asset mix;
- transfer the current assets of the undertaking to another undertaking (e.g. a special purpose vehicle) that can make higher profits by investing in riskier assets.

1800 character(s) maximum

In general we don't see why undertakings that underwrite new business should not focus on increasing their investment returns given their risk appetite. In our opinion this should be normal for all undertakings.

6.17. In the first strategy (i.e. shift to a higher risk / return asset mix), acquirers allocate more funds to more profitable and riskier assets, namely (private) equity and private or non-rated credit, which may no longer comply with the prudent person principle. Additionally, it might not always be possible to assess the risks properly because of the complexity of the investment strategy or the complexity of the inter company structure used. The supervisory authority should monitor the changes in the investments and assess if:
- the prudent person principle is still complied with. In case of specialised run-off undertakings, the new acquirers may have more skills to manage a more complex investment portfolio and they are expected to be able to “properly identify, measure, monitor, manage, control and report”[1] investment risks. At the same time, assets should be kept invested in the best interest of policyholders and the higher investment returns should be also passed to policyholders (via the discretionary participation features in case of with-profits contracts) while keeping an adequate level of liquidity to meet insurance obligations. For unit-linked products, considering that risks are entirely borne by policyholders, it is important that the risk/reward profile of assets is aligned with the risk-profile of the policyholders. As it may constitute a significant adaptation of unit-linked products, assets’ change should be subject to the entire product oversight and governance process;
- the stress in the standard formula is appropriate to the new investment strategy and the criteria for the categorisation in the market or counterparty default risk module are met.

[1] Article 132 of Solvency II Directive.

1800 character(s) maximum

6.18. The second strategy is to transfer the current assets of the undertaking to another company (e.g. a special purpose vehicle), belonging to the same group.That company can make higher profits by investing in riskier assets and provide the undertaking with the same cash flows on the same dates as those that would have been obtained from the original assets.

1800 character(s) maximum

Comment to 6.18 to 6.21: the description of the second strategy is rather confusing. This should be clarified. We understand that construction as follows:
- Transfer of an activated portfolio to an SPV: the SPV is only obliged to deliver the payment cashflows of the original portfolio (repayment and coupon) - 6.18
- Under IFRS the insurance company continues to book essentially the original portfolio. Derived from this IFRS classification, the new "Asset SPV" is treated in the SCR calculation in the same way as the original portfolio - 6.19 first dash
- The SPV, on the other hand, invests in riskier assets that appear only in the group via consolidation - but not in the individual IFRS balance sheet. Thus the assumption is that they are irrelevant for the SCR calculation.
We have identified several contradictions and difficulties to create such a construction. Especially we think that such a construction would require collateral or other risk mitigating techniques and consider it otherwise as regulatory impossible, agreeing with 6.20.
Despite this in our opinion the existing regulatory and governance system in Germany with trustee (Treuhänder), regulator, auditor, actuarial function and risk management function should be in a place to properly analyse such a construction and evaluate whether all requirements are fulfilled for an

implementation that is compliant with the existing relevant laws and regulations in their in force interpretations.

6.19. The effect of such transfer are different at solo and group level, namely:
- solo level: there is no substantial change because, assuming that after the formal transfer/sale there is a substantial retention of risks/rewards stemming from the transferred assets by the ceding undertaking, the latter will continue to recognise the transferred assets in their balance sheet[1] and SCR will be calculated taking into account these (more prudent) assets instead of the riskier ones;
- group level: the effect of the switch to riskier assets emerge only at group level with the consequence that the extra returns are not shared with policyholders of the solo undertaking.

[1] According to IFRS recognition principles which are used also for Solvency II purposes (see Article 9(1) of Delegated Regulation).

1800 character(s) maximum

This paragraph is not clear to us.

6.20. However, this particular treatment, i.e. keeping the assets sold in the balance sheet, is only allowed within IFRS where no new material risks are created. If a new material risk is created, keeping the assets sold in the balance sheet would lead to a higher risk for policyholders without higher returns and a significant deviation of the risk profile of the undertaking from the underlying assumptions in the standard formula. In particular, one key element of the assessment of these transactions is the counterparty default risk, i.e. whether the new structure keeps the same counterparty default risk as the original assets by setting up additional collaterals that guarantee the payment of the cash flows fixed in the agreement. These collaterals should comply with the requirements of the Delegated Regulation for its inclusion in the Standard Formula.

1800 character(s) maximum

6.21. Regarding the second strategy, in addition to the guidance applicable to the first strategy, supervisory authorities should consider also the following issues:
- monitor closely that there is an effective retention of risks and benefits within the undertaking after the asset transfer. In particular, verify that no new risks arise, such as counterparty or liquidity risk, for which the policyholders should be compensated. Particularly, supervisory authorities should ensure that the collaterals provided are enough in quantity to maintain the counterparty risk module, and comply with the Delegated Regulation requirements.
- supervise that the information in the public disclosure regarding the asset transfer is appropriate and sufficient.

1800 character(s) maximum

Assessment of the Reinsurance strategy

6.22. For both life and non-life insurance portfolios, the use of reinsurance treaties are observed which may lead to a material impact on the own funds (due to the reinsurance recoverables) and the SCR partially compensated by an increase in the SCR counterparty default risk.

1800 character(s) maximum

See our comment to 6.13.-6.15: The whole section should be more focused on the run-off situation. For example it could be elaborated how to deal with changes of the reinsurance strategy after a run-off decision is made. Specific remarks could be included for each of the possible situations as described in 3.1.

6.23. Supervisory authorities should discuss with the undertakings with high cession rates in particular to assess the following:
- reinsurance concentration: in case of material reinsurance with a high cession rate with respect to a single or few reinsurers, a concentration risk can arise with respect to the reinsurance counterparty. This concentration risk might not be fully reflected in the SCR e.g. for the case of a downgrade of the single reinsurer or when financial or underwriting stresses increase the probability of default of the single reinsurer;
- collateral: the counterparty risk could be reduced if collateral would be posted. Risk-based haircuts can be used to incentivise the reinsurer to use high-quality, liquid and short-term assets as collateral. Lastly, the adjustment of the collateral or the margining should be considered to ensure that this occurs within a sufficiently short delay when needed;
- retrocession: in case of high retrocession the reinsurer is merely fronting and not taking on any risk and the final risk-taker is the retrocessionaire. Specific attention is needed in case the retrocessionaire is not based in the EU. Other legislation with regard to the valuation of the technical provisions or the required solvency margin might be applicable. The ceding insurance undertaking as well as NCAs should ask for information on retrocession in cases where this seems relevant.

1800 character(s) maximum

If reinsurance cover is renewable or of a different duration to the liability, should there be an assessment of how likely it is that renewal of the reinsurance arrangement is possible, at a desirable cost, as the book decreases in size?
Collateralization or deposit is an appropriate means of reducing default risks. Both in the case of reinsurance with non-EU reinsurers, especially in the case of non-Solvency II-equivalent supervisory regimes, and in the case of retrocession to such reinsurers, we consider it appropriate that the ceding primary insurers are required to obtain information in order to be able to identify resulting risks at an early stage. This applies in particular if capital is invested abroad within the scope of a coinsurance.
See comment to 6.22;

6.24. As indicated in EIOPA's Opinion on the use of risk mitigation techniques, insurance and reinsurance undertakings - when calculating the Basic SCR - should take into account risk-mitigation techniques as referred to in Article 101(5) of Solvency II and complying with Articles 208-214 of the Delegated Regulation. Where the reduction in the SCR is not commensurate with the extent of the risk transferred or there is not an appropriate treatment within the SCR of any material new risks that are acquired in the process, insurance and reinsurance undertakings should consider that the risk-mitigating technique does not provide an effective transfer of risk.

1800 character(s) maximum

We would welcome more details and pitfalls related to “exotic” risk-mitigation techniques.

6.25. Run-off undertakings with material exposures e.g. due to reinsurance treaties with a high cession rate, have material counterparty default and concentration risks as well as possible basis risks due to imperfect margining of the collateral. Due to this idiosyncratic risk profile, it is important to evaluate, in the context of the ORSA, the appropriateness of the standard formula. The supervisory authorities should closely monitor and challenge the appropriateness of the standard formula. If insufficient evidence shows that the standard formula underestimate the SCR, supervisory authorities should ultimately consider using their power under Article 37 of Solvency II and require a capital add-on. Where the SCR is calculated with an internal model, this assessment is also part of the model application or model change process.

1800 character(s) maximum

The risk from reinsurance depends on the financial stability of the reinsurer. Reinsurance contracts with reinsurers that have a good rating and a good equity base do not expose the primary insurer to a high counterparty default risk. This is especially true for reinsurers that are subject to supervision under SII or an equivalent supervisory regime.

6.26. The decision to go into a partial/full run-off in many instances represents a material change in the risk profile and should trigger an ad-hoc ORSA,in accordance with Article 45(5) of Solvency II.

1800 character(s) maximum

We agree.

6.27. If the material reinsurance counterparty default and concentration risk is not fully captured by the SCR as demonstrated within the ORSA, and to make sure that the solvency position of the cedent remains guaranteed, the supervisory authority can request the undertaking to:
- limit the cession rate to an upper bound. A minimum retention of risks by the undertaking ca be required by the supervisory authority;
- incorporate collateral or a reinsurance deposit consisting of high quality investments with a swift margining mechanism;
- incorporate financial guarantees to ensure that capital will be injected if the solvency ratio drops below a specific threshold.

1800 character(s) maximum

As already mentioned in the comments on par. 6.25, greater differentiation should be made here. In particular, for well-rated reinsurers which are subject to SII, default risks should be low and appropriately assessed. First, a rebuttable presumption should be made that supervisory action is not required.
A minimal deductible may be appropriate to minimize subjective risks. Since this is also in the interest of reinsurers, regulation can be dispensed with at this point.

6.28. Supervisory authorities should closely monitor the reinsurance policy and assess if the policy is adequate to the portfolio of technical provisions of the run-off portfolio.

1800 character(s) maximum

CONDUCT OF BUSINESS SUPERVISION

7.1. From a conduct of business supervision perspective, specific risks can arise in the case of run-off activities and it is necessary to ensure that the interests of the policyholders remain protected.

1800 character(s) maximum

7.2. In case a Member State has different supervisory authorities for prudential and conduct supervision, EIOPA recommends that the prudential supervisory authority takes advice and involves the relevant conduct supervisor.

1800 character(s) maximum

7.3. Supervisory authorities should urge the concerned undertakings to foresee and take into account specific risks arising from such transactions having in mind the potential impact of all the circumstances stated in this Supervisory Statement to policyholders and their contracts, including the change of parties to the contract, where applicable and for example, applicable insurance guarantee schemes.

1800 character(s) maximum

7.4. Specifically in case of life business and medium and long-term commitments in run-off, supervisory authorities should assess whether the accepting insurance undertaking has a customer centric business model, including the plant to ensure that customers belonging to the run-off portfolio will be treated fairly throughout the lifecycle of the run-off products. In particular:
- they should assess the product oversight and governance policy of the accepting undertaking to ensure that it is adequately implemented and that it is adequate and proportional vis-à-vis the level of complexity of the products concerned in the portfolio transfer and the target market's characteristics.
- they should pay particular attention to how acquiring/accepting undertakings are expected to consistently monitor and regularly review the products within the acquired portfolio and when instances of consumer detriment arise how they plant to take adequate remedial actions.

1800 character(s) maximum

7.5. Supervisory authorities should urge the accepting undertakings to ensure transparency towards policyholders in order to ensure that the policyholders receive timely information about the impact of the transactions to their insurance policies. In case the portfolio is transferred to an undertaking in another Member States, they should assess how the acquiring/accepting undertakings plans to comply with specific national requirements.

1800 character(s) maximum

7.6. Supervisory authorities should also assess how complaints handling requirements will be complied with and whether the acquiring / accepting undertaking will ensure customers are treated fairly in the complaints handling process. Undertakings should also inform policyholders on any changes to their status. For

example, about access to the relevant alternative dispute resolution mechanisms and courts, impact on jurisdiction and applicable law, ceasing to effect new insurance contracts in a with-profits fund.

1800 character(s) maximum

7.7. The level of customer service should not be significantly different to the level of customer service of the transferring undertaking as to cause possisble consumer detriment. This is to be assessed taking into account parameters such as the agility of the communication channels with the client, customer language, response times and other metrics that can influence the perception and effective customer service. While procedures and process can vary, it should not be materially more difficult for customers to carry out any activity related to policy servicing, e.g. submitting a claim, assessing information, submitting a complaint. The supervisory authority may require additional reporting on the service level.

1800 character(s) maximum

IMPACT ASSESSMENT

1. Do you share EIOPA's view that run-off business model is particularly challenging (e.g. due to its specific risk profile, the difficulties of the process and assessment of the change of ownership, the lack of specific provisions on run-off in the Solvency II framework, etc) and that the release of a Supervisory statement by EIOPA will contribute to ensure a high quality and convergent supervision of run-off undertakings/portfolios?

1800 character(s) maximum

We agree that dealing with run-off business models might be challenging.
However Solvency II regulation is intended to be risk and principle based and it includes regulation in case of change of ownership or in case of material changes of business strategy. Therefore it might be questioned if there is lack of specific regulation related to run-off business. Regarding this aspect the run-off business model is not more challenging than a new-business model. The specific risks, details in modelling, parameters for the valuation of the technical provision may be different but in general the models and the methodologies are the same.

2. Do you agree with the dialogue with NCA, proposed in section 4, with regard to the decision to go into run-off? (If not, please explain the reasons why)

1800 character(s) maximum

Yes, subject to some comments set out above.
In principle we agree with the dialogue suggested but we question if there is an additional regulation needed. If a future run-off materially affects the undertaking the existing regulation requires suitable proceeding already (ad-hoc ORSA, mentioning in SFCR ...). In case of minor partial run-off the suggested dialogue would be unnecessary burdensome.
The supervisory authority should always question, if the way the insurance company wants to manage its run-off is the best way regarding the interests of policyholders. For example the strategy of the long term manageability of the policies should be carefully considered and every option of administration (also third party administration) should be considered by the shareholder.

3. Do you agree with section 5 of the Statement referred to the acquisition of run-off undertakings or transfer of run-off portfolio, that EIOPA proposed in light of the growing interest in such acquisitions, also by private equity or similar investment entities?

1800 character(s) maximum

Yes, subject to some comments set out above.
In principle we agree with the proceeding suggested but we question if there is an additional regulation needed. Usually there will be a change of ownership in connection with a change of the business strategy which will trigger such proceeding anyway.

4. Do you agree with section 6 of the Statement with regard to the on-going supervision of the Business Model (points 6.2 to 6.5)?

1800 character(s) maximum

Yes, subject to some comments set out above.

5. Do you agree with section 6 of the Statement with regard to the on-going supervision of Technical Provisions (points 6.6 to 6.15)?

1800 character(s) maximum

Yes, subject to some comments set out above.
One other concern to raise here is that change in assumptions following the decision to stop writing new business may materially affect the value of TPs and or any change in assumptions following the cession of the run-off portfolio. This should be closely monitored by the Supervisory authority to ensure that any change will not cause detriment to the policyholders.

6. Do you agree with section 6 of the Statement with regard to the on-going supervision of Investments (points 6.15 to 6.21)?

1800 character(s) maximum

Overall we agree to section 6 (points 6.15 to 6.21), however (compare the respective comments above and the answer to question 9 below) we do think that the existing regulatory, legal and governance framework is sufficient to ensure a proper supervision and do not see the need for additional regulation for run-off undertakings. Obviously in case of a more complex investment strategy or usage of more complex instruments proper supervision will demand more time and resources, but that is not unique to the run-off segment, but true in general.

7. Do you agree with section 6 of the Statement with regard to the on-going supervision of the Reinsurance strategy (points 6.22 to 6.28)?

1800 character(s) maximum

Yes, subject to some comments set out above.

8. Do you agree with section 6 of the Statement on Conduct of business supervision?

1800 character(s) maximum

Yes, subject to some comments set out above.

9. Is there any supervisory assessment/analysis that it is missing in the Statement that you find relevant to introduce? (If yes, please add a bit of background)

1800 character(s) maximum

Whilst there is some reference to liquidity in the paper, we would have expected the potential volatility of a smaller book may challenge the liquidity of the entity in run off so maybe some extra guidance around could be outlined.

In our perception, the existing regulatory framework already gives sufficient leeway to tackle the specific questions arising in the run-off context, which are long-term fulfilment of obligations towards the customer:
a) financially (e.g. guarantees given in the past) and
b) from an operational point of view (ensuring long-term administration of contracts and associated IT and cost issues)

ADDITIONAL COMMENTS

Please insert here any general comment, if not related to the specific paragraphs and sections above

1800 character(s) maximum

Our view is that policyholder protection is the most important aspect of the supervision of any run-off portfolios and any decisions taken by companies or supervisors need to keep this in mind.
Within the paper there are many statements made which are valid in a more general context and are not specific to a run-off situation. The paper could be improved if it would be better focused to the run-off situation and elaborates on topics for which EIOPA has determined already inappropriate or divergent proceeding.
Nevertheless in our opinion the general regulation of Solvency II is sufficient for run-off models and new-business models. We don't think, that there is the need of burdensome specific regulations.

Contact

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