AAE High-Level Response to EC Consultation on Solvency II Delegated Regulation Review

The Actuarial Association of Europe (AAE) welcomes the opportunity to respond to the consultation on the review of the Solvency II Delegated Regulation. Actuaries are central to sound risk management, financial stability, and the long-term resilience of the European insurance sector.

We support the Commission's aims to encourage long-term investment, reduce unnecessary burdens, and enhance proportionality, while maintaining strong policyholder protection. However, we are concerned that some amendments risk shifting Solvency II from a principles-based to a more rules-based regime. We stress the importance of maintaining a principles-based approach and the responsibility of undertakings, especially through actuarial and risk management functions.

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Key observations:

- **Policyholder protection:** While the framework supports wider EU priorities such as the Green Deal and competitiveness, protecting policyholders must remain the overriding objective. Any recalibration of capital requirements, particularly where safety margins are reduced, should be accompanied by a clear responsibility for undertakings to demonstrate appropriateness in their ORSA.
- **Reliance on data and judgement:** The draft amendments highlight climate scenarios in data provisions. We recognise climate change as a material risk and support its explicit consideration. At the same time, undertakings must not rely solely on historical data but also on forward-looking developments across all material risks. Actuaries have always combined experience with future expectations, applying professional judgement to ensure that best estimate cashflows reflect likely realities. It would be more consistent to emphasise this principle across the framework, with climate as one example.
- **Proportionality and simplification:** We support stronger and more consistent proportionality measures, especially for small and non-complex undertakings. However, some new requirements—such as calculating expected profits in future fees—risk adding burden without clear benefit. Simplification should not be undermined by parallel new obligations.
- **Methodological changes**
    - Extrapolation: The minimum Alpha of 11% could cause excessive volatility in case of short-term market distortion. A higher value should be used for stability. We support the proposed regulation for the determination of the first smoothing point which aims at ensuring stability in the valuation.
    - Volatility Adjustment (VA): While refinements are welcome, the Credit Spread Sensitivity Ratio (CSSR) will add complexity without solving reliance on currency-specific reference portfolios. The calculation should be limited to RSR reporting, with extraordinary recalculations only for material changes. VA use should continue to be supported by effective ORSA oversight.
    - Interest rate risk: The amendment of the calibration especially aims at an appropriate treatment of low and negative interest rates. The sharp increase of interest rates observed in 2022 showed that calibration focused on downward shocks may no longer be sufficient. A reassessment should address both upward and downward movements and different yield curve shapes.

- Long-term equity: Excluding CIUs and financial sector bonds from liquid assets can be overly conservative. Liquidity tests should not rely only on crude ratios but capture a wider range of constraints.
- Prudent deterministic valuation: This proportionality measure may be useful for some undertakings but has clear limitations. Strong reliance on actuarial judgement is essential for responsible application.

- **Reporting:** We support efforts to streamline SFCR and reporting templates. However, we note that the overall reporting requirements —including expected new sustainability requirements — may offset these gains.

Our detailed comments on individual articles of the draft Delegated Regulation are included in the attached document.

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ACTUARIAL ASSOCIATION OF EUROPE
ASSOCIATION ACTUARIELLE EUROPÉENNE

SILVERSQUARE NORTH
BOULEVARD ROI ALBERT II 4
B-1000 BRUSSELS, BELGIUM
(+32) 2 274 06 61
INFO@ACTUARY.EU
WWW.ACTUARY.EU

Addendum to AAE consultation comments to the European Commission Consultation on review of Solvency II technical rules

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Introduction

This document sets out the Actuarial Association of Europe's (AAE) detailed observations on the European Commission's draft amendments to the Solvency II Delegated Regulation. It builds on the AAE's high-level consultation response by providing article-by-article comments, drawing on the expertise of our members across Europe.

Our purpose is to offer constructive technical feedback to ensure that the amended framework remains proportionate, principles-based, and consistent, while safeguarding policyholder protection and supporting the long-term resilience of the insurance sector. The comments reflect actuarial analysis and professional judgement, and are intended to assist policymakers and supervisors in refining the proposed text.

We would like to note the extremely limited time allowed for this consultation. As a result, the comments provided here should not be regarded as exhaustive. They represent the AAE's initial technical assessment of the draft Delegated Regulation based on the expertise available within the timeframe. Further issues may arise as the proposals are considered in more depth, and we remain ready to engage with the European Commission, EIOPA and other stakeholders to provide additional input as required.

Article 1(1)(b) Point 46a: New definition of EPIFF and article 260(4) (expected profit in future fees)

The proposed requirement to calculate expected profit in future fees (EPIFF) appears inconsistent with the objective of reducing administrative burden. It is not clear whether the expected benefit justifies the additional effort for undertakings. We therefore suggest reconsidering the introduction of this concept, or at minimum providing a clear justification of its added value relative to the burden created.

Notes:
1. *For further information please contact Monique Schuilenburg, Operations Manager (tel. +32 2 274 06 61), moniques@actuary.eu*
2. *Copies of all AAE press releases are available on the AAE website (www.actuary.eu)*
3. *The Actuarial Association of Europe (AAE) was established in 1978 under the name Groupe Consultatif to represent actuarial associations in Europe. Its primary purpose is to provide advice and opinions to the various organisations of the European Union - the Commission, the Council of Ministers, the European Parliament, the European Supervisors and their committees – on actuarial issues in European legislation. The AAE currently has 38 member associations in 37 European countries, representing circa 30,000 actuaries. Advice and comments provided by the AAE on behalf of the European actuarial profession are totally independent of industry interests.*

The Actuarial Association of Europe is registered in the EU Transparency Register under number 550855911144-54.

Article 20 & 231: Data reliance

We note that the amendments to Articles 20 and 231 highlight climate scenarios in the context of data. While climate change is indeed a material risk, the broader principle is that undertakings must not rely solely on past data but should also take into account expected future developments across all risks. This has always been part of actuarial practice, where the aim is not simply to project past patterns but to estimate future cash flows. Expert judgement is essential in this process.

To reflect this broader principle more consistently, we suggest that instead of amending Articles 20 and 231, Article 34(2) could be revised as follows:

> *"The choice of actuarial and statistical methods for the calculation of the best estimate shall be based on their appropriateness to reflect the risks which affect the underlying cash flows and the nature of the insurance and reinsurance obligations. The actuarial and statistical methods shall be consistent with and make use of all relevant ~~data~~ information available for the calculation of the best estimate, including relevant and reliable data on past experiences and information available about expected future developments that have influence on the future cash flows."*

Article 31(4): Projecting expenses

The relationship between Article 7 (requiring a going concern assumption) and the new Article 31(4) seems unclear. If the administrative body decides to stop writing new business, this would conflict with the going concern assumption. We suggest clarifying the text to ensure consistency.

We propose that (5) in Article 31, paragraph 4 is replaced by the following:

> *"4. Expenses shall be projected taking into account the decisions of the administrative, management or supervisory body of the undertaking regarding the volume and mix of new business."*

Article 34: Prudent deterministic valuation

The prudent deterministic valuation (PDV) is presented as a proportionality measure available to small and non-complex undertakings under Article 29c of the Directive. While we support proportionality, we have several concerns about the current drafting.

First, the proposed requirement that the time value of options and guarantees (TVOG) must represent less than 5% of the SCR introduces an additional threshold. This appears unnecessary, given that SNCUs are already subject to specific criteria and that SCR is not an appropriate volume measure for this purpose.

Second, the PDV methodology itself is necessarily simplistic. Reliance on a maximum of ten scenarios, combining real-world and risk-neutral assumptions but without dependency structures, limits its robustness. While proportionality justifies a simpler approach, its limitations should be recognised.

Third, the actuarial function (AF) has an essential role in ensuring that the chosen methodology is appropriate, that ESG models are properly understood and calibrated, and that prudence is maintained. In our earlier response to EIOPA's consultation on PDV (EIOPA-BoS-24-324), we emphasised that simplified methods still demand a thorough assessment of the undertaking's business model and portfolio, and that explicit guidance on the AF's tasks—particularly regarding ESG

models and prudence—would be valuable. We recommend reflecting these points in the regulation or accompanying guidance, to ensure consistent application.

Finally, to promote harmonisation across Member States, further guidance on Articles 34a(2) and 34a(3) would be helpful. This would ensure proportionality is applied consistently, without undermining the robustness of technical provisions.

Article 46: Extrapolation

The justification given in recital (10) for setting the convergence speed parameter Alpha at 11% is not fully convincing. The choice of this minimum value does not appear to reflect the potential for increased volatility in solvency positions during periods of short-term market distortion, as documented in EIOPA's impact assessments (HIA, year-end 2019; CIR, 30 June 2020).

Although Alpha is less critical in the current higher interest rate environment, the extrapolation methodology must remain flexible to cope with changing financial conditions, including prolonged low or negative rates, without relying on a phasing-in mechanism at the time of implementation.

To reduce the risk of disruption when the revised methodology takes effect, we recommend selecting an Alpha above the minimum 11%. This would provide greater stability and ensure that the safeguard mechanism would only apply in the event of significantly lower interest rates.

Article 51(a): Volatility Adjustment / Credit Spread Sensitivity Ratio

The introduction of the Credit Spread Sensitivity Ratio (CSSR) raises several concerns.

First, the proposed calculation is complex and may create a significant additional burden. As CSSR factors differ across portfolios, the required stochastic scenario sets and other deliverables may multiply, adding process steps within an already tight closing schedule. This could make it difficult for undertakings to meet reporting deadlines. We therefore suggest analysing and calculating the CSSR as part of the ORSA. Extraordinary recalculations should only be required only in case of material changes.

Second, the CSSR formula itself may lead to discontinuities. For example, if PVBP(BEL) equals zero, the formula is undefined; if it is negative, CSSR equals zero; if slightly above zero, CSSR equals one. These "cliff effects" could produce volatile results and unintended management incentives. To avoid this, we suggest setting CSSR equal to 1 whenever PVBP(BEL) is zero or negative, as in these cases overshooting of the VA cannot occur.

Finally, several elements would benefit from clarification:

- The meaning of "residual credit spread risk exposure" should be specified.
- When computing the CSSR from the VA on the asset side, it is unclear why spreads are adjusted for future discretionary benefits but not on the asset side; greater consistency would be preferable.

Article 123(7): Flood risk exposure

The proposal would increase the flood risk factor for motor business from 1.5 to 10. This change does not follow the EIOPA assessment and was therefore not expected or consulted before.

This proposed change could be disproportionate, and we would ask that it reverts to the previous risk factor of 1.5.

Article 124(7): Hail risk exposure

The proposal would increase the hail risk factor for motor business from 5 to 10. This change does not follow the EIOPA assessment and was therefore not expected or consulted before.

We recommend additional studies to support the amendment of this parameter.

Articles 166 & 167: Interest rate risk (upward and downward shocks)

The proposed calibration continues to rely on EIOPA's 2020 analysis. Significant market developments since then, particularly the sharp rise in inflation and interest rates in 2022, highlight limitations in this approach.

Evidence from actuarial research, including studies by the Institut des Actuaires, suggests that methodologies developed in 2009 and updated in 2018 are no longer adequate for today's more heterogeneous market conditions.

In addition, the current formulation of the shocks may produce unintended results in a negative interest rate environment:

- Under the upward shock (Article 166), the multiplicative element could in some cases reduce rates.
- Under the downward shock (Article 167), the multiplicative element could increase rates.

To avoid such anomalies, we suggest revising the formula as follows:

- r^up = r + abs(r) * s^up + b^up
- r^down = r – abs(r) * s^down + b^down

These adjustments would ensure that the stressed rates behave consistently even when starting from negative values.

Article 171(b):

Liquidity buffer for non-life

The proposed requirement to calculate a liquidity buffer equal to the best estimate of non-life technical provisions raises concerns. Best estimates may have very different liquidity characteristics depending on whether the underlying business is short- or long-term. For long-term activities, the ability to mobilise liquid assets up to the level of best estimates would not be meaningful.

We are also concerned about the exclusion of collective investment undertakings (CIUs) and financial sector bonds from the list of eligible liquid assets. In practice, CIUs have in some cases provided liquidity even under stressed conditions, and the reasons for holding them (e.g. administrative or tax efficiency) are not necessarily linked to liquidity concerns. Similarly, bonds issued by financial institutions are already subject to credit risk assessment through CQS; excluding them entirely may be disproportionate.

We suggest limiting any exclusion to bonds issued within the same group, where it is more plausible that such instruments would not be available as a liquidity source. This would better align the calibration with real business practices while maintaining prudence.

Duration-base for life insurance

The duration-based approach for life insurance is simple, but the criterion appears overly restrictive and would exclude many portfolios, despite insurers' established ability to hold equities over the long term.

We recommend using Macaulay duration, which reflects the actual observed behaviour of the liability, whereas modified duration, which is not directly consistent with a duration but with a sensitivity, provides a biased measure of the stability of the liability over time.
Furthermore, in line with the holding requirement, we believe that a duration of 5 years would be reasonable and consistent.

Article 171(d)

More generally, the narrow treatment of equities held through funds does not reflect the common use of funds in practice.

We suggest a more flexible calibration of LTEI rules, to better reflect insurers' proven long-term investment capacity and align with practical asset management.

Article 189 Drafting Consistency

There appears to be a drafting inconsistency. Article 189(a) currently refers only to point (g), but the amendment introduces both (g) and (h). We suggest clarifying the text to read:

> "In paragraph 2, the following points (g) and (h) are ~~is~~ added."

Article 192 Counterparty Risk

The amended formulation for calculating loss-given-default (LGD) applies a negative sign to the risk-mitigation adjustment. This appears inconsistent with the treatment of LGD in other parts of the framework and is counterintuitive in practice. We suggest retaining the original formulation, where a "+" sign is used in front of the term $50\% \times RM\_re$.

Article 212: Risk mitigation techniques

The amended text in paragraph 1 refers to paragraphs 2 to 9, whereas the current version refers to paragraphs 2 to 6. It is unclear whether this broader reference is intentional, and clarification would be helpful to avoid misinterpretation.

Regarding Article 212(8), the requirement to provide the full pay-out distribution of the risk mitigation technique may be disproportionate. A more proportionate approach would be to request this level of detail only where the technique is material to the solvency position.

The reinsurance market is highly specialized, with contractual provisions systematically tailored to meet the specific needs of the cedant and the reinsurer. Imposing such constraints could lead to a lack of capacity for certain risks, thereby making it impossible to cover them and potentially leading to insurance gaps.

Applied techniques have to be chosen in consideration of undertakings' written policy in relation to risk management.

Article 235: Internal models

The proposed new paragraph (4) would exclude recognition of contingent capital instruments within internal models. We do not support such exclusions. Internal models under Solvency II are already subject to extensive validation, supervisory review, and approval. In this context, prescribing exclusions for specific instruments risks undermining the principles-based and economic approach that is central to Solvency II. We therefore suggest that paragraph (4) should not be added.

Article 292 Information for policyholders and beneficiaries

The new requirement could be interpreted as obliging undertakings to publish the SFCR in all official EU languages, since policyholders may relocate after purchase. This would create a disproportionate administrative burden. We suggest clarifying that the relevant languages are those of the jurisdiction where the contract was sold, as this can be controlled by the undertaking.

Article 294 Critical functions in SFCR

The proposed requirement to disclose in the SFCR all outsourced critical or important functions, together with the names of service providers, would significantly increase administrative burden without clear benefit for policyholders. We suggest removing this requirement.

Article 297: Scenario analyses and sensitivities

Several aspects of the new requirements merit clarification:

- Scope: It should be specified which undertakings are considered "relevant for the stability of the financial system in the Union."
- Additional reporting: The additional sensitivities diverge from those used under IFRS and may impose significant extra effort. In particular, the requirements in Article 297(2)(l) and 297(5) to report sensitivities for MCR, risk concentration and liquidity risk are likely to be disproportionate. A materiality principle should apply, with sensitivities only required where they meaningfully affect solvency.
- Methodological consistency: The 50bp shifts should be reviewed for consistency with the revised extrapolation method, since the extrapolated part of the RFR may need to be reconsidered.

  Management actions: Excluding future management actions may lead to unrealistic results. A more balanced approach would be to allow undertakings to disclose the type of management actions assumed, their expected impact, and the supporting rationale and evidence of feasibility.

Articles 307 & 308 Drafting Consistency

The amending Regulation appears to introduce new Articles 307 and 308 while leaving the old Article 308 in force. For clarity, the text should explicitly state that both Articles 307 and 308 are replaced.

Article 327: Proportionality

The conditions under which undertakings not classified as small and non-complex may use individual proportionality measures remain unclear. This creates a risk of divergent interpretation by national supervisors and may undermine the level playing field across Member States.

For example, criteria for assessing whether an insurer has a "complex business model" or for applying an appropriate risk margin in medium-term capital planning could be interpreted differently. A

further risk is misalignment between solo undertakings that qualify as SNCUs and their treatment at group level under SNCG criteria.

We suggest clarifying these conditions to ensure consistent application of proportionality across the EU.

Article 330: Group capital availability and EPIFP

The proposal to include expected profit in future premiums (EPIFP) in the assessment of group capital availability raises concerns. EPIFP represents future profits embedded in premiums, which under Solvency II are already recognised in the best estimate liability calculation. It should not be drawn into the assessment of capital availability at group level.

In addition, restricting recognition of EPIFP from subsidiaries while allowing it at parent level would be economically inconsistent and could create incentives for inefficient group restructuring. We therefore suggest that the explicit reference to EPIFP in Article 330 be removed.