European Insurance and Occupational Pensions Authority

Public consultation on the annex on proportional reinsurance with features reducing commensurateness

Fields marked with * are mandatory.

Introduction

The European Insurance and Occupational Pensions Authority (EIOPA) has published a consultation paper on a new Annex to its Opinion on the use of risk-mitigation techniques by insurance undertakings addressing proportional reinsurance with features reducing commensurateness. The consultation paper also includes a section addressing a related topic: the treatment of reinsurance commissions in the Standard Formula premium risk (previously addressed in Q&A 1898).

Stakeholders are invited to provide their feedback on the consultation paper by Friday 17 July 2026 at 23.59. The feedback received will be taken into account in the finalisation of the annex.

Comments are most helpful if they:

- respond to the questions stated, where applicable;
- contain a clear rationale; and
- describe any alternatives EIOPA should consider.

To submit your comments, please click on the blue “Submit” button in the last part of the survey. Please note that comments submitted after Wednesday 15 July 2026 at 23.59 or submitted via other means will not be processed. In case you have any questions please use the contact button on the right pane.

Publication of responses

Your responses will be published on the EIOPA website unless you request to treat them confidential, or they are unlawful, or they would infringe the rights of any third party. Please, indicate clearly and prominently in your submission any part you do not wish to be publicly disclosed. EIOPA may also publish a summary of the survey input received on its website.

Please note that EIOPA is subject to Regulation (EC) No 1049/2001 regarding public access to documents and EIOPA's rules on public access to documents.

Declaration by the contributor

By sending your contribution to EIOPA you consent to publication of all non-confidential information in your contribution, in whole/in part – as indicated in your responses, including to the publication of the name of your organisation, and you thereby declare that nothing within your response is unlawful or would infringe the rights of any third party in a manner that would prevent the publication.

Data protection

Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published. EIOPA, as a European Authority, will process any personal data in line with Regulation (EU) 2018/1725. More information on how personal data are treated can be found in the privacy statement at the end of the public consultation document.

General information on the respondent

* Name of the stakeholder

Actuarial Association of Europe

* Type of stakeholder

- ○ Insurance or reinsurance undertaking
- ○ Industry association
- ○ Consumer protection association
- ○ Academic
- ◉ Other

* If other, please specify:

Professional Association

* Jurisdiction of establishment

Belgium

* Name of point of contact

Stephanos Hadjistyllis

* Email address of point of contact

info@actuary.eu

* Please provide your explicit consent for the publication of your response

- (selected) Yes, publish my whole response
- Yes, publish a part of my response
- No, do not publish my response

Section 3: Proportional reinsurance with features reducing commensurateness

General comments

Q1. Please provide any general comments to Section 3: Annex on proportional reinsurance with features reducing commensurateness

The AAE welcomes this Annex as a useful and timely clarification of the commensurateness requirement set out in EIOPA's 2021 Opinion on risk mitigation techniques. The features addressed — variable commissions, loss corridors, and loss limits — can materially alter the effective risk transfer profile of what would otherwise be a straightforward proportional reinsurance treaty, and supervisory clarity in this area is appropriate. We broadly support the objectives of this Annex. Ensuring that SCR relief from proportional reinsurance arrangements is commensurate with the genuine risk transferred is a legitimate and important supervisory objective. The comments below are intended to contribute to the practical effectiveness and technical precision of the guidance.

We note that such contractual features are not uncommon in the European market, particularly in the context of smaller undertakings or undertakings with lower capital buffers, where reinsurers may introduce them to manage their own exposure and to create appropriate incentive structures within the cedant. We support the principle-based approach of the Annex and its recognition that these features warrant case-by-case scrutiny rather than blanket prohibition.

We draw EIOPA's attention to a practical implementation concern that runs across the Annex. It is not yet clear how a quantitative finding of reduced or absent commensurateness — whether derived from a Monte Carlo simulation or an ERD test — translates in practice into an adjustment to the Standard Formula SCR calculation. The Annex would benefit from more specific guidance on the mechanics of this translation so that undertakings and their actuarial functions have a workable framework for implementation.

The process of quantifying risk-mitigating effects for contracts with commensurateness-reducing features will, in many cases, be resource-intensive. The proportionality carve-out in the blue box is therefore important and welcome. We would encourage EIOPA to be clear in its final guidance that the full quantitative assessment is reserved for situations of genuine doubt, and that the carve-out is available — and expected to be used — in the majority of cases involving immaterial features.

More broadly, the AAE reaffirms its longstanding position that capital relief should be accompanied by genuine risk reduction, and that the assessment of commensurateness should remain case-by-case, taking into account the specifics of each arrangement, the risk profile of the undertaking, and the interaction between different reinsurance contracts covering the same risk.

Finally, the AAE wishes to draw attention to a concern of broader significance regarding the proposed treatment of fixed commissions in Section 4 of the Annex. There is a risk that the proposed guidance — while directed at structured capital-optimisation arrangements — may also affect capital requirements for undertakings using conventional proportional reinsurance treaties for legitimate risk management purposes. We address this concern in detail in our response to Q5.

Section 3.1. Description of the case

Q2. Section 3.1: Description of the case.

Paragraphs 3.1 to 3.5

5000 character(s) maximum

The AAE finds the description of the case in paragraphs 3.1 to 3.5 to be broadly clear and informative. We offer three observations.

First, the description is framed almost entirely from the perspective of the cedant. However, undertakings that accept (assume) reinsurance business face a symmetrical situation: the contractual features described — variable commissions, loss corridors, and loss limits — apply equally to the assumed portfolio and give rise to the same commensurateness concern from the assuming undertaking's perspective. We would welcome confirmation from EIOPA as to whether the guidance in this Annex applies equally to assumed reinsurance, or whether a cedant-only scope is intended and, if so, the rationale for this limitation.

Second, the statement in 3.4 “for example, a 60% quota-share reinsurance treaty with a loss cap at 80% will have the same recoverables associated to the claims best estimate liability than a 60% quota-share reinsurance treaty without a loss cap if the loss-ratio is below 80%” is in our view potentially misleading because it could be read as implying that the cap does not affect the best-estimate recoverables while in fact it will affect the best estimate as the probability-weighted mean of all possible outcomes unless it has zero probability of being triggered. The wording could for instance be changed to “… a 60% quota-share reinsurance treaty with a loss cap at 80% might have the same recoverables as a 60% quota-share reinsurance treaty without a loss cap in the event of an average or median outcome”.

Third, the parallel numbering of section headings (e.g., 'Section 3.1') and paragraph references (e.g., 'paragraph 3.1') creates a potential source of confusion for the reader. We suggest that EIOPA consider differentiating these labels in the final text — for example, by using distinct formats for section and paragraph identifiers — to avoid ambiguity in cross-references.

Section 3.2. Assessing the balance between risk transfer and capital release

Q3. Section 3.2: Assessing the balance between risk transfer and capital release.

Comments to the blue box

5000 character(s) maximum

The AAE supports the supervisory expectations set out in the blue box. We offer the following observations on three aspects of its drafting.

On the scope of non-recognition
The blue box states that 'if commensurateness is jeopardised, the risk-mitigating effect of the reinsurance treaty should not be recognised in the Standard Formula.' As currently drafted, this implies a binary outcome: either full recognition or complete non-recognition of the treaty's risk-mitigating effect.

We note that proportional reinsurance treaties with commensurateness-reducing features may still transfer a meaningful, if reduced, amount of risk. Applying a binary non-recognition rule in such cases would produce a more conservative outcome than the actual risk profile warrants, and could, in extreme cases, result in an over-capitalisation that is in tension with the broader objective of Solvency II.

We would suggest that EIOPA consider whether the language could be refined to allow for partial recognition, proportionate to the extent of genuine risk transfer demonstrated. A formulation such as 'where the recognition of the risk-mitigating effect of the treaty would lead to a materially greater reduction in the SCR than the reduction in the risk retained by the undertaking, the extent of recognition should be adjusted accordingly' would, in our view, better reflect the principle-based and proportionate approach of Solvency II.

On the role of the actuarial function
The blue box places the commensurateness assessment within the responsibilities of the actuarial function, which is consistent with the actuarial function's existing mandate under Article 48(1)(h) of the Solvency II Directive and Article 272(7) of the Delegated Regulation to express an opinion on the adequacy of reinsurance arrangements. The AAE supports this.

However, the quantitative dimension of the commensurateness assessment — particularly Monte Carlo simulation or ERD testing — typically requires substantive input from other functions within the undertaking, including the risk management function and the function responsible for managing reinsurance. The current drafting may give the impression that the actuarial function carries sole responsibility for producing this assessment. We would welcome an acknowledgement in the final text that the actuarial function carries out this assessment in cooperation with other relevant functions.

Concretely, we suggest considering the following amended formulation for the blue box opening: 'Within the assessment performed by the actuarial function, in cooperation with other relevant functions of the undertaking such as the risk management function and the function responsible for reinsurance, on the adequacy of material proportional reinsurance arrangements...'

On the ORSA disclosure requirement and proportionality carve-out
The AAE welcomes the ORSA disclosure requirement and notes that it is consistent with our longstanding position that the ORSA is the appropriate vehicle for undertakings to assess and evidence deviations from Standard Formula assumptions, including those arising from complex reinsurance arrangements.

The proportionality carve-out is also welcome. We note, however, that the blue box instructs that 'materiality should be evaluated according to objective criteria consistently across contracts and time' without specifying what those criteria are. Some elaboration — even indicative or high-level — of the nature of those objective criteria would assist undertakings in applying the carve-out consistently and with confidence.

Q4. Section 3.2: Assessing the balance between risk transfer and capital release
Paragraphs 3.6 to 3.15

5000 character(s) maximum

On the definition of commensurateness
The Annex introduces commensurateness as the central concept against which proportional reinsurance features are to be assessed, but neither this Annex nor the underlying 2021 Opinion provides a precise, operational definition. We note that this creates a degree of uncertainty for undertakings attempting to apply the guidance in practice and does not support convergence of this between different European Member States.

An important technical observation in this context is that, due to the non-linearity of the SCR calculation under the Standard Formula, even a pure proportional reinsurance treaty — one with no commensurateness-reducing features — does not produce a proportional reduction in the SCR relative to the cession percentage. The inherent structure of the Standard Formula means that 'proportional risk transfer' does not translate into 'proportional SCR relief'. Any test or definition of commensurateness must therefore be calibrated against this baseline, rather than implying a simple linear relationship between cession percentage and capital reduction. We would encourage EIOPA to acknowledge this non-linearity explicitly in the final Annex, and to clarify how the baseline comparator for a 'plain proportional treaty' (referred to in paragraph 3.12) should be constructed in light of it.

On the ERD test
The AAE welcomes the inclusion of the Expected Reinsurance Deficit (ERD) as a recognised and widely-used method for assessing risk transfer. We have two technical concerns about the definition as presented in footnote 9.

First, the term 'loss' in the expressions P(loss) and E(Severity|loss) is ambiguous. A practitioner reader may interpret 'loss' in the claims sense — i.e., incurred losses on the ceded portfolio — rather than the intended meaning, which is that the reinsurer incurs a net financial loss on the contract as a whole. We suggest making this distinction explicit by defining the 'loss event' as the event in which, at the outset of the reinsurance contract, the present value of all cash flows specified in the contract represents a net outflow from the perspective of the reinsurer.

Second, the denominator is defined as 'reinsurance premium net of reinsurance commissions' without specifying which types of commission should be deducted. This is particularly relevant where variable commissions are involved, since their value is uncertain at inception and the choice of commission treatment can materially affect the ERD result. We would suggest that the final Annex either specifies the treatment of each commission type in the ERD denominator, or provides a reference to established actuarial literature on this definitional question, so that practitioners have a principled and consistent basis for their calculations.
On the Monte Carlo approach and the qualitative/quantitative hierarchy

The AAE supports the Monte Carlo simulation approach outlined in paragraph 3.11 as a sound method for measuring risk-mitigating effects relative to the Standard Formula SCR. The suggestion that simulations may be run using Standard Formula assumptions as a baseline — while permitting undertakings to use alternative assumptions that better reflect their risk profile — is a sensible and proportionate approach.

We would encourage EIOPA to be explicit in the final guidance that the qualitative assessment referred to in paragraph 3.14 should, in most cases, be the primary analytical tool, with full quantitative testing reserved for situations of genuine doubt. The current sequencing of paragraphs 3.10 to 3.15 — which presents quantitative methods first and qualitative assessment second — risks conveying the opposite hierarchy. Making the primacy of qualitative assessment clear would also reinforce the proportionality principle.

Finally, and as noted under Q1, it would be helpful for the final Annex to explain how the outcome of a quantitative commensurateness assessment — whether a Monte Carlo result or an ERD comparison — is practically incorporated into the Standard Formula SCR calculation. Without this, undertakings may find it difficult to translate the analytical exercise into a coherent solvency calculation.

Section 4. Commissions in the volume measure for non-life premium risk (Q&A 1898)

Q5. Please provide any comments to Section 4: Commissions in the volume measure for non-life premium risk (Q&A 1898).

Paragraphs 4.1 to 4.5.

The AAE welcomes the clarification provided in Section 4. The treatment of fixed versus variable reinsurance commissions in the non-life premium risk volume measure has been applied inconsistently across Member States, and the resolution of Q&A 1898 through this Annex is a useful step towards supervisory convergence.

We would suggest, however, that the guidance on fixed commissions could be made more precise in one respect. Paragraph 4.3 states that fixed commissions frequently represent exposure to risk for the cedant — specifically where expense risk is not transferred through the proportional reinsurance treaty — and that they should in such cases increase the volume measure. In practice, a fixed commission may combine elements of compensation for acquisition costs (which are directly linked to the expense risk retained by the cedant) and elements of compensation for more general administrative or overhead expenses (where the link to retained risk exposure may be less direct). We would suggest that the final guidance clarifies whether both categories of fixed commission should be reflected in the volume measure, or whether a distinction is intended between these two components. We would also note that decomposing a commission amount between acquisition costs and general administrative expenses at line-of-business level may not be straightforward in practice, as many undertakings do not account for commission receipts at this level of granularity; EIOPA's final guidance should be explicit about the level of precision expected.

This distinction between commission types is particularly relevant where the commission structure combines fixed and variable elements, or where a sliding-scale commission includes a material minimum commission floor. In these hybrid cases, it may not be straightforward to determine whether the minimum floor functions as a fixed commission for volume measure purposes. Illustrative examples in the final Annex — or a reference to the commensurateness assessment guidance — would assist practitioners considerably.

Beyond the question of commission type definitions, the AAE draws EIOPA's attention to a broader concern with the proposed guidance in Section 4. The requirement that fixed commissions representing expense risk borne by the cedant should increase the premium risk volume measure will, as a practical matter, affect all proportional reinsurance treaties that carry standard market commissions — not only those structured arrangements where commission design is primarily a capital management tool. For an undertaking using a conventional quota share treaty for underwriting support and volatility reduction, where a commission genuinely compensates for acquisition costs retained by the cedant, the proposed treatment would increase the premium risk SCR relative to the approach that some undertakings have previously applied under Q&A 1898.
We would encourage EIOPA to clarify whether this broader capital impact on conventional proportional reinsurance is a deliberate and intended consequence of the guidance, or whether the primary intent is to target arrangements where commission structures are specifically designed to optimise capital rather than to reflect genuine expense transfer. If the latter, further guidance that clearly distinguishes between these two categories would be welcome.

Furthermore, the AAE notes that the proposed approach — whereby fixed commissions representing retained expense risk are added to the premium risk volume measure and thereby subjected to the same standard deviation factors as claims risk — does not adequately reflect the distinct risk profile of expense risk. Expense risk exhibits materially lower volatility than claims risk: expenses are largely predictable, contractually fixed, or subject to management control, whereas claims experience is inherently stochastic and subject to tail events. The premium risk standard deviation factors are calibrated on claims experience and are not appropriate for measuring the capital requirement attributable to expense exposure included in the volume measure through reinsurance commissions. The AAE would encourage EIOPA to ensure that, where commission amounts are included in the volume measure as a proxy for retained expense risk, the standard deviation factors applied to those amounts are appropriately calibrated to reflect expense risk volatility. Without such calibration, the proposed guidance risks generating capital charges that are disproportionate to the underlying risk, contrary to the principle of risk sensitivity that underpins the Standard Formula.

We also note that this consideration has particular relevance in the context of intra-group reinsurance arrangements, which represent a significant portion of proportional reinsurance activity within European insurance groups.

Contact

Contact Form