| | Comments Template on EIOPA-CP-14-065<br>Draft proposal for Level 3 Guidance on valuation of assets and liabilities other than technical provisions | Deadline<br>02.Mar.2015<br>23:59 CET |
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| Company name: | Insurance Europe | |
| Disclosure of comments: | EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.<br>Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the right and by inserting the word Confidential. | Public |

Please follow the instructions for filling in the template:

- Do **not** change the numbering in column "Reference".
- Please fill in your comment in the relevant row. If you have no comment on a paragraph, keep the row empty.
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  - If your comment refers to multiple paragraphs, please insert your comment at the first relevant paragraph and mention in your comment to which other paragraphs this also applies.
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The paragraph numbers below correspond to Consultation Paper No. EIOPA-CP-14-065.

| Reference | Comment |
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| General Comment | We basically support EIOPA's approach concerning the adaptation of IFRS endorsed within the EU for harmonisation purposes of IFRS and solvency II principles. As a general rule, a value which has been recognised as a fair value under IFRS should also be recognised as an economic value under Solvency II.<br><br>However, we have the following concern:<br>• **The guidelines state or at least imply that only valuation methods in accordance with IFRS should always be used for Solvency II.** EIOPA's insistence on accepting IAS/IFRS valuation methods only is in clear contradiction of the outcome of the discussions on the Delegated Acts.<br>Articles 9(4) and 10 of the Delegated Acts apply the proportionality principle to valuation under Solvency II, and permit use of accounting values that have not been determined in accordance with IFRS, provided that they either represent an economic valuation or are adjusted accordingly. The guidelines must reflect the provisions of these articles.<br><br>• **EIOPA should make sure that the guidelines keep abreast of the changes in IFRS.** As IFRS is constantly changing (improving) and new standards emerge, these changes should be reflected within the solvency II framework to the extent that they comply with IFRSs adopted by the EC in accordance with regulation (EC) N° 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accountiong standards. In particular, it is important to avoid situations in which for Financial Statements EU insurers using IFRS have to apply new or amended standards which are not yet agreed upon for use within Solvency II. | |
| 1.1. | | |
| 1.2. | | |
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| 1.6. | The possibility that alternative valuation methods determined according to local GAAP might also be used under specific conditions, should be included here. There is only reference to IFRS or | |

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| | adjustments to IFRS. | |
| 1.7. | | |
| 1.8. | Written premium is defined in Article 1.11 of the Delegated Act. We therefore suggest deleting the definition in the introduction of these Guidelines. | |
| 1.9. | | |
| 1.10. | | |
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| 1.14. | | |
| 1.15. | It would be important to know when the review by EIOPA of these guidelines is envisaged and what are the objective criteria needed to be met for such a review to be triggered. | |
| Guideline 1 | The reference to materiality with a definition consistent with how the concept is used in the Delegated Acts is appreciated.<br>Furthermore, athough the guideline permits the use of proxies and simplifications for quarterly calculations, we note that these are allowed under the conditions as set out in the guidelines and the Solvency II legislation. Therefore, the use of proxies and simplifications should not be related to the topic of materiality as mentioned here by EIOPA and this reference should be removed. | |
| Guideline 2 | | |
| Guideline 3 | This guideline reduces the number of alternative valuation methods to three methods. These should not be considered an exhaustive list and this should be reflected in the guideline.<br>In direct relation to this, a reference to the cost approach set out in article 10.(7)(c) of the Delegated Acts should be added as guidelines should not prohibit the use of any valuation method mentioned in the Delegated Acts.<br><br>Beside the argument above, we note that IFRS provides guidance with respect to property | |

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| | investments (IAS 40), property for own use and plant, equipment (IAS 16). Specifically with respect to equipment, one common approach taken is the use of the cost minus depreciation. In our opinion the carrying amount of "equipment" or "other assets" not being inventory (IAS 2) could be used as proxy for the economic value, e.g. in the case of furniture, the depreciation could be regarded as the normal economic wear and tear when using the asset in a normal manner. In such a case, a revaluation to an economic value, which implies a too big administrative burden, will not be of real benefit. | |
| Guideline 4 | | |
| Guideline 5 | We understand that the requirement not to adjust for own credit risk standing does not apply to subordinated liabilities since these are rather deemed as Own Funds. | |
| Guideline 6 | Article 9(4) of the Delegated Acts, in accordance with the principle of proportionality, permits an undertaking to recognise and value an asset or liability based on a valuation method other than IFRS, provided specified conditions are met. Therefore we do not agree with the requirement in the first paragraph of this guideline that undertakings should *"…recognise and value that related undertaking's assets and liabilities in accordance with IFRS"* and suggest that it is deleted. | |
| Guideline 7 | | |
| Guideline 8 | As a reminder, according to Article 11 of the DAs, contingent liabilities shall be recognized in the Solvency II balance sheet only if they are material. This should be reflected in the guidelines.<br>Besides, we are against requiring contingent liabilities to be valued as in many instances, contingent liabilities are treated for accounting purposes as off-balance sheet items. This is because it is not clear that they actually are liabilities at a balance sheet date. We propose that contingent liabilities are only valued as liabilities in the context of the sale of a business as a whole because in most other circumstances, contingent liabilities will have such very low probabilities of a future outflow of funds (and as such would be immaterial) that it would be difficult to value them with the required degree of robustness.<br><br>Adding up to this argumentation, we would point out that under IFRS (IAS 37) two types of contingent liabilities are identified. Either:<br>1) those that relate to a possible obligation that arises from past events and the existence of which will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or<br>2) those that relate to a present obligation that arises from past events but is not recognised because | |

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| | it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation or the amount of the liability cannot be measured reliably.<br>The reason why IFRS does not propose recognition of (notably) Type 2 contingent liabilities under IAS 37, is that these can not be measured reliably, or their occurrence not being probable. We question whether recognition of these items in the Solvency 2 balance sheet would make much sense.<br><br>As a side note, it is not clear how it is possible in the general ledger to book an on-balance sheet item (i.e. contingent liability) for a company A against an off-balance sheet item (i.e. ancillary own funds) for a counterparty company B. | |
| Guideline 9 | | |
| Guideline 10 | This guideline is interpreting Article 15 (3) of the Delegated Acts which is consistent with IAS 12 criteria in assessing the probability that future taxable profit will be available (i.e. IAS 12.37 (b) on whether it is probable that the entity will have taxable profits before the unused tax losses or credits expire). However, guideline 10 of this consultation paper is taking a view (which is not stated in IAS 12) on the definition of 'probable taxable profits' by defining them as the profits considered for the normal planning cycle.<br>It is our view and also a common view taken by auditors when interpreting the recoverability period of deferred taxes under IAS 12, that without specific circumstances, it is inappropriate to assume that no taxable profits are probable after a specified time period e.g. the 3 year plan cycle. Therefore, for every year until the expiry of tax losses, the calculation should include plan taxable profits that satisfy the criterion of being more probable or not.<br><br>In addition, when Deferred tax assets are recognised in a company that has a history of recent losses and the evidence described in the explanatory text is already a requisite in Local reporting, it would alleviate the reporting burden if this evidence is to be resubmitted.<br><br>Overall, we consider the paper to be inconsistent. In particular, we find that Guideline 9 specifically references IAS 12 as the principle to apply for the SII balance sheet and yet Guideline 10 which talks about documentation, deviates there from our understanding of the requirements of IAS 12. Therefore our working assumption remains valid, that IAS 12 is the starting point and a | |

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| | documentation requirement would not impose a different recoverability assessment than IAS 12. | |
| Guideline 11 | | |
| Guideline 12 | This guideline goes with no doubt beyond Level 1 and 2 and as such should be deleted. Article 9 (4) of the Delegated Acts states that by way of derogation from using IAS/IFRS for valuing assets and liabilities, under specific conditions undertakings may recognize an asset or liability based on the valuation method the undertaking uses according to local GAAP.<br><br>Guideline 12 requires undertakings that intend to apply this derogation to use the comparison table in Annex I as a reference. The comparison table, however, suggests that only the IAS/IFRS and their valuation methods are consistent with Article 75 of the Solvency II Directive. This leads to a situation that an undertaking that intends to use the derogation of Article 9 (4) of the Delegated Acts, ends up being required to resort to IAS/IFRS valuation methods which is in clear contradiction with Article 9 (4) of the Delegated Acts. | |
| Explanatory text Guideline 5 | The top-down approach should not have as a starting point the fair value as calculated under IFRS. This approach should also be applicable for undertakings applying Local Gaap with the requisite adjustment (many SMEs) especially since the bottom-up approach can prove challenging. | |
| Explanatory text Guideline 6/7 | | |
| Explanatory text Guideline 8 | The sentence mentioning that "an undertaking needs to consider the risk that the actual cash outflows might differ from those expected" shoud be deleted. This is because the risk that the actual cashflows differ from those expected is reflected in the solvency capital requirement and not within the valuation of those items. | |
| Explanatory text Guideline 9 | Guideline 9 states that IAS 12 defines the principles for recognition and valuation of deferred taxes. However, this guideline goes further than IAS 12 by stating what documentation entities should provide to supervisory authorities in order to gain assurance over the recoverability of deferred tax. While we appreciate that this guideline will help supervisory authorities in their review of deferred tax under Solvency II, we would ask EIOPA to point out that supervisory authorities, in their review, should not go beyond the requirements of recoverability testing performed under IFRS. | |

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| Explanatory text Guideline 10 | | |
| Explanatory text Guideline 11 | | |
| Explanatory text: Table consistency of IFRS valuation | We believe it is necessary to provide a specific section in Solvency II disclosures on estimations, corrections of errors, etc. | |
| Technical Annex | The purpose of the table of the technical annex on page 62 is not clear in the context of this consultation paper. If the intention is to make the valuation methods used in Solvency II contingent to the member state options laid down in the accounting directive (Directive 2013/34/EU), this goes with no doubt beyond Level 1 and 2. According to the table of the technical annex on page 62 (with no reference in the guidelines itself), it can be understood that the derogation of Article 9 (4) of the Delegated Acts can only be used if certain Member State options which are set out in the Accounting Directive (Directive 2013/34/EU) are exercised by the respective Member State (MS). If such is the case,EIOPA Guidelines are not in line with the option that an undertaking can apply the derogation of Article 9 (4) of the Delegated Acts and cannot be accepted. The complete table must be deleted.<br><br>As an example : MS Option of Article 8 (6) of the Directive 2013/34/EU states that a MS may permit or require the recognition, measurement and disclosure of financial instruments in conformity with IFRS. If that MS option is exercised, an undertaking with its head office in that MS cannot apply the derogation of Article 9 (4) of the Delegated Acts for valuing financial instruments. | |
| Annex I: Impact Assessment | We disagree with the impact assessment of Policy Issue 6 (Contingent Liabilities). Measurement of items that cannot be measured reliably may be a costly exercise which will most likely outweigh the benefits. | |
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