IRSG

INSURANCE AND REINSURANCE STAKEHOLDER GROUP

Advice on a package of 7 Solvency II related consultations
(EIOPA-BoS-24-322)
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IRSG SUMMARY

The IRSG welcomes the opportunity to provide advice on all 7 consultations with a January 2025 deadline and will package all its comments under this document. These consultations are very important on the implementation of Solvency II as they include several implementing technical standards (ITS) and reporting technical standard that will have a clear impact on (re)insurers and potentially ultimately on end consumers. Therefore, we would like to bring out some general considerations which we see as important to ensure that insurers can work efficiently and keep serving the best interests of policyholder and also EU political goals:

- We observe throughout the consultations that some of the language is too vague, and as such leaves room for interpretation. In our responses we make suggestions for more precise wording but encourage EIOPA to further work on this to make the final text clearer to interpret.
- If implemented in their current form, this set of draft technical specifications would significantly increase the reporting burden on the industry. We observe a contradiction here with the EU political ambition to reduce the reporting burden of the industry by 25% so that other important goals can be better achieved. Therefore, we recommend a more principle based and proportionate implementation.
- We observe that impact analyses on these technical standards are mostly qualitative, improving these before finalization might help also to focus better on key topics that need to be tackled.
- We question the use of a €12bn threshold which can be found in several of these consultation papers. We believe that that the €12bn threshold lacks risk-based justification and would also need to be updated periodically, therefore we recommend a more principle-based approach.

As a specific points on each of the 7 consultations, The IRSG would bring out that:

Draft RTS on exceptional sector-wide shocks

- We support initiatives to ensure financial stability and policyholder protection. At the same time, unnecessary interventions can potentially become destabilizing for the industry by limiting access to funding, reducing the competitiveness of the sector and increasing the cost of insurance. The current ITS grants substantial power to supervisory authorities without introducing a clearly defined definition of sector wide shocks, which increases the risk of overreach. We make several recommendations with regards to how to more precisely define terms and criteria, and we call for a balanced and proportionate application of the RTS in practice.

Draft RTS on applicability criteria for macroprudential analysis in ORSA and PPP

- In our opinion, the scope should be very clearly macroprudential only and not micro prudential and this should be reflected throughout the paper. We also suggest bringing more clarity on the scope and the objective of this new requirement. Otherwise, the outcome may not be effective in improving the holistic macroprudential analysis at national or EU level. We still believe, that maintaining the ORSA as an insurer-specific risk assessment rather than a platform for additional systemic goals serves the best purpose for holistic risk management framework.

Identifying undertakings under dominant or significant influence and undertakings managed on a unified basis

- In general, we recommend using existing criteria (accounting standards such as IFRS, legislation, etc.) as far as possible when defining a group. Where new rules are needed, we recommend a more principal based approach based on the risk that end consumers might face if the Solvency II scope of consolidation is not appropriate.

Draft RTS on liquidity risk management plans

- While liquidity risk management is essential for both financial stability and policyholder protection, we believe that the effective implementation of liquidity risk management depends very much on the specific risk profile of the insurance entity. In that regard, we find that the current proposal is too prescriptive and leads to an excessive reporting burden, while a more principle-based approach would better achieve the overarching goals on liquidity risk management.
- We believe that liquidity risk management plans should either be prepared at group or at solo level (not both), in alignment with the liquidity strategy of the undertaking. This dual-level requirement may create unnecessary administrative burdens, as some companies manage liquidity centrally, while others handle it at the solo entity level.

Draft RTS on determining relevant undertakings in respect to host Member State's market

- We suggest a couple of clarifying amendments to the articles to better reflect the nature of reinsurance in relation to both life- and non-life insurance, separately.

Scenarios for best-estimate valuations for life insurance obligations

- We believe that the approach suggested by EIOPA should remain optional for companies and they should be allowed to continue to use other approaches also to ensure better accuracy. Furthermore, the 'prudency' can be questioned as the outcome depends highly on the liability profile and there is a high risk that the difference between two different valuations (say year-to-year) increases significantly. Also, the way the approach should be used when calculating

the Solvency Capital requirement (SCR) has not been considered and the proposed set of market variables do not contain all parameters that might be used in the valuation of future guarantees and options. While this is understandable, it would require crucial additional parameters with the technical link to other related scenarios. The proposed approach is not 'deterministic' in the sense in which it is defined and greater transparency is required on the scope of undertakings impacted by the consultation.

Advice on capital requirements for investments in crypto assets

- Investing into crypto assets is currently very limited amongst EU insurers. We would in any case question the 100% capital charge (value reduces to zero using a 1-year VaR risk measure) as Solvency II should be a risk-based framework and already has strong governance principles (such as prudent person principle) that both ensures and requires various processes from the insurer when investing into such an asset class.

1. CRITERIA FOR THE IDENTIFICATION OF EXCEPTIONAL SECTOR-WIDE SHOCKS

Q1. Do you have general comments on the consultation paper?

IRSG answer

The IRSG welcomes the opportunity to contribute to EIOPA's draft Regulatory Technical Standards (RTS) on the identification of exceptional sector-wide shocks under Article 144c of the Solvency II Directive. As strongly requested by European Institution, Solvency II review has strengthened the macroprudential framework of European insurance regulation, introducing new macroprudential requirements for insurers and new macroprudential powers for supervisors. Hence, more recently, Institutions and policymakers have raised numerous concerns about financial stability risks, such as those expressed by the European Commission in the "Targeted consultation on assessing the adequacy of macroprudential policies for non-bank financial intermediation (NBFI)". We appreciate the EIOPA's efforts in the RTS drafting to safeguard both financial stability and policyholders, which are critical pillars for a resilient and robust insurance sector.

The industry has consistently demonstrated resilience through past crises, supported by a robust regulatory and supervisory framework, further strengthened by new macroprudential tools like LRMP. However, we believe that certain aspects of the draft require further refinements to reach regulatory objectives without undermining the European insurance competitiveness. Our main comments on the draft are as follows:

- Supervisory powers to restrict distributions should remain carefully limited and proportionate, with a focus on identifying truly vulnerable undertakings rather than imposing blanket restrictions.
- A holistic understanding of how various supervisory tools interact during crises is essential for effective implementation.
- Lack of Detailed Definitions and Broad Discretionary Powers. The RTS currently lacks a precise and detailed definition of what constitutes an exceptional sector-wide shock. While we acknowledge the need to ensure adequate flexibility in the application of shocks, we believe that the drafting of the RTS is excessively vague, and grants supervisory authorities a broad degree of discretion, increasing regulatory uncertainty and leaving room for an inconsistent application among member states.
- Reliance on SCR as a key risk-based metric. We strongly believe that in the identification process of the exceptional sector-wide shocks, NCAs should take into account the real risk

exposure of the insurance sector. An excessively arbitrary process for identifying shocks, in fact, enables NCAs to apply highly prescriptive supervisory powers without adequately considering either the actual mechanisms of risk transmission within the insurance sector nor the effective capitalization levels of insurance undertakings. The breach of the Solvency Capital Requirement (SCR) should remain the primary criterion for determining when Supervisory action is warranted.

- Procyclical Effects of Dividend Restrictions. Restricting or suspending dividends during crises is often viewed as a way to preserve capital, but this approach has significant unintended consequences: for example, it could reduce investor confidence, leading to lower market valuations of insurers, and it could also have procyclical effects amplifying downward spirals. The application of such powers should be clearly related to extreme events that affect the financial system as a whole.
- When using the term “financial stability”, the draft RTS should make clear that it refers to “financial stability of financial systems concerned in the European Union” as this is the relevant objective of supervision pursuant to Art. 28 SII-Directive (and contrasted with the objective of protecting policyholders and beneficiaries pursuant to Art. 27 SII-Directive). Otherwise, the term “financial stability” may lend to other, potentially narrower or more micro prudential, interpretations.
- “Contribution” of insurance undertakings of a sector to financial instability as per Art. 1 (1) a) Draft RTS should be subject to a materiality qualifier. Otherwise, any individual instability (irrespective of SCR compliance) may be seen as part of an overall instability and, thus, contributing to it.
- Furthermore, Art. 144c requires that a sector-wide shock is “exceptional”. The RTS does not allow any differentiation of shocks as exceptional. While Art. 144c SII-Directive speaks of sector-wide shocks, the term “sector” should be understood as meaning the whole insurance sector. However, the draft RTS tries to define “sector” as a sub-set of the national insurance sector which is too narrow. E.g. where Art. 1(1) a) speaks of “insurance and reinsurance undertakings of a sector” and Art. 1(1) b) of “insurance or reinsurance cover provided by a sector”, this refers rather to insurance segments or even lines of business rather than the insurance sector as a whole.
- Furthermore, it may make sense to have a closer link between “exceptional sector-wide shocks”, declared by national supervisory authorities, and “exceptional adverse situations” pursuant to Art. 138 (4) SII-Directive, declared by EIOPA and allowing NCAs to give insurance undertakings more time to restore their solvency in case of SCR breach. However, Art. 1(2) draft RTS only requires that the latter is one of several factors to be taken into consideration.

The definition of a sector-wide shock is linked to an increased risk of financial instability and to the risk that undertakings representing a significant portion of the sector’s insurance coverage may be unable to meet their obligations towards policyholders.

Q2. Do you have comments on the following sections in section 1 with background and rationale?

1.1 Amendments to the Solvency II Directive

IRSG answer

No

1.2 Mandate for draft Regulatory Technical Standards

IRSG answer

No

1.3 Approach to the RTS

IRSG answer

No

Q3. Do you have any other comments on the background and rationale section?

IRSG answer

Broad or discretionary criteria may lead to unwarranted declarations of shocks, impacting investor confidence and the cost of equity and subordinated debt for European insurers. This could harm the sector's competitiveness globally, particularly during periods of economic stress, and exacerbate procyclicality.

We would like to reiterate that insurers, unlike banks, do not fail overnight. Insurers are actually counter-cyclical players because short-term risks (fire, motor, medical expenses, etc.) are not correlated to the market while long-tail risks (casualty, longevity/mortality risks, long-term care) make insurers patient investors that can hold assets through the cycle. However, the draft RTS leaves the door open for supervisors to declare an exceptional sector-wide shock on the insurance sector as soon as they see one on the banking side. The Covid experience shows that the restrictions on insurers were mainly the results of a "follow the fortune of banks" situation, with the ESRB extending to the insurance sector restrictions that were primarily designed for the banking sector. Yet, pressuring the valuation of insurers is the surest way to prevent them from playing their role as countercyclical investors.

More specifically, it is important to consider that impediments to dividends mean a lower market value of insurers. During a crisis, the risk of impediments would increase, and company valuations

would decrease further creating a procyclical and self-fulfilling dynamic. As per Article 28 of the Directive, financial instability should not be fostered through supervisory actions. As it stands, the draft RTS is not safely putting the supervisors in a situation to comply with Article 28. As soon as they would declare an exceptional sector-wide shock, the market will sell the companies that are considered the most likely to be assessed “vulnerable”, thus making them effectively “vulnerable”.

Q4. Do you have comments on the following recitals?

Recital 1

IRSG answer

We see the need to ensure clarity and consistency in risk assessment and terminology. Clear and harmonized definitions of the terms “shock” and “sector-wide” are essential to reduce ambiguity and ensure uniform application across the EU. On terminology, if being used, we would point out the following as the terms used which require precise definitions to ensure clarity and avoid overreach.

- A “shock” is defined as a sudden event, i.e. unplanned and unanticipated, massive event that takes market participants by surprise (“shocks”) and to which they cannot react immediately and appropriately.
- The term “sector-wide” should denote systemic implications that affect multiple undertakings within the insurance sector and should be clearly opposed to isolated impacts on individual entities. Moreover, sector-wide shocks should be declared when multiple European markets are considerably affected, and there is no reasonable prospect of a recovery within e. g. 3 months after the consideration of existing reinsurance mechanisms mitigating prevailing impacts.
- The word “vulnerable” must respect the ladder of intervention under Solvency II, with the Solvency Capital Requirement (SCR) breach (in line with Article 137 of Directive 2009/138/EC) remaining the primary trigger for action.
- The ITS wording which refers to events which “significantly increase” the risks of undertakings contributing to financial instability in one or more Member States is vague. The wording is less precise and more open to interpretation than the Directive wording which states that exceptional sector-wide shocks have the potential to threaten the financial position of the undertaking concerned or the stability of the financial system. The wording under paragraph (1) should be aligned with the Directive or removed.

In addition to the points raised in the previous answers, we believe it is important to clarify the definition of a "significant portion of insurance coverage", since differing interpretations could result in varying approaches adopted by National Competent Authorities.

Recital 2

IRSG answer

The definition of a sector-wide shock is linked to both an increased risk of financial instability and a heightened risk that undertakings may fail to meet their insurance obligations towards policyholders. In this context, it is important to emphasize, as widely acknowledged, that the insurance sector is less exposed to the propagation of systemic risk.

- Contagion risk is significantly lower in the insurance sector because insurers are far less interconnected with one another. Unlike the banking sector, there is no "interinsurer" funding market comparable to the interbank market. Consequently, the failure of one insurance company would have minimal — if any — impact on others. Furthermore, underwriting risks are generally not correlated with broader financial risks.
- Liquidity risk, a key concern for both policyholder protection and financial system stability, is generally well-managed and effectively supervised in the insurance sector. This resilience stems from the unique characteristics of the insurance business model, including:
    - Illiquid liabilities: Claim payouts are typically triggered by insured events rather than policyholder decisions, especially in the non-life sector. Likewise, in the life sector the risk of mass lapses is mitigated by contractual features, such as cancellation penalties and tax charges.
    - Asset Liability Management (ALM): Insurers generally align the duration and liquidity of their assets with their liabilities to mitigate liquidity risk.

Given these factors, the only effective way to assess whether a sectoral shock poses a threat to financial stability or policyholder protection is to adopt a risk-based approach. This requires explicitly linking the analysis, at sectoral level, to the Solvency II SCR (Solvency Capital Requirement) ratio framework.

We have also identified that exceptional sector-wide shocks might need to factor in more precisely the impact of natural catastrophes of an exceptional magnitude and width (such as storms, floods and forest fires) that seem to be increasing and should trigger the reviewing by local authorities of country hit by the event. The identification of any such events as contributing to a sector wide shock must be considered in the context of the criteria we propose as set out in our comments under Article 1.

Recital 3

IRSG answer

We understand EIOPA's need to focus the criteria more on the potential consequences of shocks rather than on the identification of specific events constituting a sector-wide crisis. For this reason, as stated in Q4-Recital 2, the only effective way to assess both the impact of shocks on financial stability and the insurance sector's ability to meet policyholder obligations is to align the

identification of exceptional sector-wide shocks with a risk-based approach. Solvency II has proven to work well over these years, strengthening the sector's resilience to financial, pandemic, or geopolitical turbulences, and represents a high capital standard compared to other regulations. For these reasons, Solvency Capital Requirement (SCR) should remain the central benchmark for assessing the risk profile of the vulnerability of insurance sector entities, as well as their ability to fulfil obligations during crises. This metric, already embedded in the Solvency II framework, provides:

- Clarity and Objectivity: SCR is a quantitative standard, making it less prone to subjective interpretation compared to broader discretionary measures.
- Resilience Indicators: It effectively captures the financial position of undertakings, focusing on solvency levels to address both immediate and long-term risks.

Ensuring that SCR remains the guiding metric will prevent overreliance on discretionary assessments, reducing the risk of misjudged interventions.

Hence, we underline the need to correctly evaluate the possible procyclical consequences of supervisory powers on dividend restrictions. Restricting or suspending dividends during crises is often viewed as a way to preserve capital, yet this approach has significant unintended consequences:

- Market Value Declines: Restrictions reduce investor confidence, leading to lower market valuations of insurers.
- Procyclical Dynamics: These declines in valuation can trigger speculative sell-offs, amplifying systemic risks and creating self-fulfilling downward spirals. Insurers perceived as "vulnerable" become further exposed to market pressures, undermining their ability to stabilize through countercyclical investments.

The RTS should carefully consider these dynamics. Measures that impose blanket restrictions on distributions should be accompanied by robust impact assessments to prevent exacerbating market volatility and compromising insurers' roles as long-term, stabilizing investors.

Further attention should be given to the regulation of dividend distribution among companies within the same group, particularly in the context of relationships between subsidiaries and parent companies. It is important to emphasize that intra-group distributions do not pose a risk of diluting the group's overall capital position. Rather, they represent internal transfers of wealth that do not affect the group's stability. Such internal distributions neither impair the group's overall solvency nor compromise its financial soundness, as the risk remains confined within a single economic and financial perimeter. From this perspective, any limitations on dividend distribution should apply exclusively to the parent company or to entities distributing dividends to stakeholders outside the group. This targeted approach would help safeguard the group's solvency by preventing the outflow of resources that could jeopardize its overall financial stability.

Recital 4

IRSG answer

No

Recital 5

IRSG answer

No

Q5. Do you have comments on the following articles?

Article 1 - Criteria for exceptional sector-wide shock

IRSG answer

We find that the mandate of EIOPA is to specify the criteria for the identification of exceptional sector-wide shocks but EIOPA indicates that to reflect the high degree of uncertainty over what form a future crisis may take, these criteria will not be fully defined and the identification will rely on supervisors' judgment and decision ("*The proposed draft RTS sets out different factors that supervisors should consider in their decision… The factors are not meant to be necessary or sufficient conditions for the existence of an exceptional sector-wide shock*"). This judgment needs to be applied carefully to avoid a supervisory over-reaction. It is emphasized that the current draft, which gives supervisors a lot of discretion, has the potential to increase the cost of equity and the spread on subordinated debts of the European (re)insurers, particularly in bad times, thus hurting the competitiveness of the EU sector while being procyclical. The draft also fails to consider the competitiveness aspect of suspending distributions if EU companies in different Member States are subject to different national approach or, if the EU as a whole has an approach that differs from other major global jurisdictions. This is also critical for the functioning of groups which relies on intragroup dividends to allocate capital and liquidity appropriately.

Therefore, the identification of the exceptional sector wide shock would only be appropriate if it is truly "sector-wide", i.e. if there were a high degree of confidence that it would result in the identification of a majority of "individually vulnerable entities" in a country market (if an asymmetric country shock) or within the single market (if EU-wide or global shock). A shock should not be identified as "sector-wide" if only a limited number of companies would be impacted and if these companies could be dealt with by the other directive provisions. In case of an EU-wide shock or a global shock, supervisors should also get to a high degree of confidence that supervisors will also resort to consider the suspension of dividends for a large part of their

markets. Otherwise, the identification of the shock could unnecessarily undermine confidence in the (re)insurance industry and increase wider market uncertainty.

Taking the above into account and in the interest of legal certainty and accountability for all stakeholders involved and affected, the IRSG proposes a rephrasing of Article 1 paragraph 2 as follows:

(2) For the assessment of the condition set out in paragraph 1, the supervisory authority shall identify whether all of the following conditions are met:

(a) The exceptional sector-wide shock has an impact on the stability of the financial systems concerned in the European Union pursuant to Article 28 of Directive 2009/138/EC.

(b) A majority of insurance and reinsurance undertakings in the Member States concerned is to be assessed vulnerable within the meaning that it no longer complies with the Solvency Capital Requirement pursuant to Article 138 of Directive 2009/138/EC

(c) The impact of the exceptional sector-wide shock cannot be resolved within a short-term period of three months.

(d) The supervisory authorities of the Member States concerned reach a joint assessment of the points (a) to (c).

The assessment of the criteria set out above shall take into account the following conditions:

(a) risk-mitigating effects of reinsurance and other mechanisms of capital protection

(b) the risk of pro-cyclical behaviour pursuant to Article 28 of Directive 2009/138/EC

(c) the risk of contagion of other financial sectors within the meaning of Article 2(8) of Directive 2002/87/EC

(d) the contribution of intra-group dividends to the objective of a stable and single Union financial market for financial services pursuant to Recital 7 of Regulation (EU) No 1094/2010

In addition we propose to align the RTS with Union law by defining the term “sector” within the meaning or Article 2(8) of Directive 2002/87/EC.

Article 2 - Entry into force

IRSG answer

No

Q6. Do you have any other comments on the draft technical standards?

IRSG answer

No

Q7. Do you have comments on the analysis of policy issue A?

No

Q8. Do you have any other comments on the impact assessment in Annex I?

IRSG answer

No

Q9. Do you have any other comments on the consultation paper?

IRSG answer

No

2. PROPOSAL FOR REGULATORY TECHNICAL STANDARDS ON APPLICABILITY CRITERIA FOR MACROPRUDENTIAL ANALYSIS IN ORSA AND PPP

Q1. Do you have general comments on the consultation paper?

IRSG answer

In our opinion, the scope should be very clearly only macroprudential and not micro prudential and this should be reflected throughout the paper. For instance liquidity risk holds both micro- and macro prudential angles and very often does not result to macro prudential issues. Also, insurance- and saving product offerings have in very rare cases resulted into risks of macro-prudential nature. We suggest bringing more clarity on the scope and the objective of this new requirement. Otherwise insurers' ORSA analyses may be useless for any holistic macroprudential analysis at national or EU level.

Similarly, we propose the deletion of the EUR 12 billion assets threshold in favor of risk-based criteria. The EUR 12 billion threshold lacks risk-based justification and may become increasingly disproportionate over time without adjustments for inflation or other factors. Additionally, when NSAs evaluate the substitutability of an insurer, they should assess whether the insurance is mandatory or essential for the insured's operations.

While the integration of macroprudential considerations is acknowledged, additional requirements must remain targeted to exceptional cases to preserve the integrity of the ORSA and PPP processes. Therefore we would also highlight that:

- Ensuring clear supervisory rationale and proportional criteria for applicability.
- Avoiding excessive and unclear requirements, such as group plan obligations that are redundant for subsidiaries already under group analysis.
- Maintaining ORSA as an insurer-specific risk assessment rather than a platform for additional systemic goals.

Q2. Do you have comments on the following items in section 1 "Background and rationale"?

1.1 Amendments to the Solvency II Directive

IRSG answer

No

1.2 Mandate for draft regulatory technical standards

IRSG answer

No

1.3 Approach to the RTS

IRSG answer

No

Q3. Do you have any other comments on the background and rationale section?

IRSG answer

No

Q4. Do you have comments on the following recitals in section 2?

Recital 1

IRSG answer

No

Recital 2

IRSG answer

No

Recital 3

IRSG answer

No

Recital 4

IRSG answer

No

Recital 5

IRSG answer

No

Recital 6

IRSG answer

No

Q5. Do you have comments on the following articles in section 2?

Article 1 - Definitions

IRSG answer

Please check that the proposed definition of ‘synthetic leverage’ is not already defined in another EU legislation and if it is, it might be better to make a reference.

Article 2 - Applicability criteria for macroprudential analysis in the own risk and solvency assessment

IRSG answer

We believe that in case a company (group or (re)insurer) is included into the scope after a supervisory assessment, there should be some rule or understanding on the time needed for the company to fully comply with this article. Ad-hoc analysis can be made in a short timeframe but including new analysis into the ORSA process can take 1-2 years.

Article 3 - Assessment criteria for macroprudential analyses in the context of the prudent person principle

IRSG answer

We find the criteria in (1) a-d is very 'handpicked' and might not give the right or non-controversial information for supervisors. For instance, ALM mismatch or investments into illiquid assets might trigger some macro-prudential questions but they might also serve important EU goals such as investments aligned to Paris-agreement climate transition or European private equity or more generally investing into the government and corporate bonds in the EU despite the duration. Also insurers better tailoring business to address the protection gap can trigger similar issues as resulting risk coverage might be kept relatively short while at the same time assets are invested long term. If the outcome from supervisors macroprudential analyses was somewhat alerting because of the criteria 1a -1d, what would the recommendation be? We suggest defining the criteria differently.

We would also highlight that in the (1)(c); The phrase "approach to valuations" should be further clarified.

Article 4 - Entry into force

IRSG answer

No

Q6. Do you have any other comments on the draft technical standards in section 2?

IRSG answer

No

Q7. Do you have comments on the analysis of the following policy issues - Policy issue A?

IRSG answer

No

Q8. Do you have any other comments on the impact assessment in Annex I?

IRSG answer

With the policy options, we keep it unclear how the process would work in practice. This should be better clarified.

Q9. Do you have any other comments on the consultation paper?

IRSG answer

No

3. PROPOSAL FOR REGULATORY TECHNICAL STANDARDS ON FACTORS FOR IDENTIFYING UNDERTAKINGS UNDER DOMINANT OR SIGNIFICANT INFLUENCE AND UNDERTAKINGS MANAGED ON A UNIFIED BASIS

Q1. Do you have general comments on the consultation paper?

IRSG answer

We believe that the introduction of factors for identifying undertakings subject to significant/dominant influence or managed on a unified basis pursuant to the new Article 212, paragraph 4 of Solvency II could represent a useful tool both for the Supervisory Authorities and the sectoral stakeholders. At this aim, it is indeed important to clarify as much as possible what circumstances could trigger the identification of the relationships of: i) significant influence; ii) dominant influence; or iii) unified management, pursuant to the new Article 212, paragraphs 2 and 3.

To that end, we positively evaluate the ground-setting instruction set out in RTS, Recital (4), that requires National Supervisory Authorities (NCAs) to mainly consider contractual arrangements between firms as the first and most appropriate element for the assessment, since this provision helps to enlighten the evaluation procedure followed by the NCAs. However, we find that the proposed RTS somehow misses the opportunity to provide further clarity with respect to the factors already included in Art. 212, paragraph 4, points a) – d).

In particular, the European Directives and legal framework consider significant influence, dominant influence and unified basis management as three different relationships between undertakings. Despite this, this RTS draft does not specify which factors are relevant for identifying each of the three cases mentioned. Therefore, it is not clear which criteria listed in the RTS could lead to classify the relationship between two undertakings as a case of significant influence, dominant influence, or, finally, unified basis management. All these three relationships between companies determine the formation of a group, but very different consequences arise for the undertakings depending on how they are classified under each relationship mentioned, for example in terms of balance-sheet data consolidation method (e.g., a parent undertaking is required to draw up full-consolidation, whereas a participating undertaking is not).

We also find that this regulation is written in a very specific terms, describing under each of the items set out in Article 212(4) of the Solvency II Directive a broad list of factors the significance, continuity, and consistency of any of which could indicate a dominant or significant influence. The regulation should make it clear that most of the items listed would be unlikely to indicate a significant or dominant influence, but rather their presence could help to inform a holistic assessment.

Therefore, we would point out that:

- For Third-Country Groups: The current criteria could inadvertently capture stand-alone undertakings that belong to third-country groups, even if the links (e.g., shared branding or administrative functions) do not create material influence. To address this:
    - Add a paragraph clarifying that Articles 1–4 do not apply where links are solely due to membership in a third-country group without substantive influence.
- We welcome factors that lead to a convergence of the Solvency II and the IFRS group definitions. We think that a reference to IFRS 10, resp. to the IAS-Regulation (EU 1606/2002) might reduce a risk of dissociation of the two regimes, not least because it would be dynamic. On the other hand, factors that cannot be found in IFRS 10 and IAS 28 should be avoided as those might trigger further inconsistency between the different reporting regimes. We also find that in national accounting frameworks there can be similar and clear criteria to recognize groups which should also be looked at.
- Greater clarity should be gained by specifying in each Article 1) – 4) of the RTS whether the listed criteria help to identify a significant, a dominant influence or undertakings managed on a unified basis, respectively. If the same criteria can potentially lead to multiple identifications, it could be useful to introduce more specific criteria to address how each of the three types of relationship is exerted. Even if most of the criteria included in the proposed RTS are sufficiently straightforward, others do not clearly outline the factual circumstances that the Supervisory Authorities should consider. Hence, we suggest clarifying the definition of those RTS' criteria that do not directly involve nor assess the legal/financial links between the targeted undertakings (e.g., financial operations) or the personal links between the members of the respective administrative, management or supervisory bodies. We understand that some non-legal criteria (e.g., the criteria of sharing similar investment strategies, having similar risk exposures, etc.) can be helpful to shed light on intricate factual situations, but we recommend clarifying their exact application and specifying that those are rarely standalone conditions, and thus pointing out their connection with other stronger criteria listed in these RTS. For example, Article 2 lists the potential relationships or transactions that can exist between two companies. Most companies will be involved in many or all types of relationships listed with multiple counterparts e.g. reinsurance, the presence of which would not indicate a significant or dominant influence in the great majority of circumstances.

- When identifying the criteria on dominant or significant influence and whether this results that some companies are or are not considered to be a 'group', a core trigger should be looked – Will it be likely that end policyholders bear additional risk if these companies would not be recognized as a group? And if this is not the case, then the influence should not be identified as either dominant nor significant.
- We believe that in general, dominant or significant influence are relevant criteria for the group definition and, hence, for the scope of accounting or prudential consolidation. Insurance groups have an interest in a consistent group definition across the different reporting regimes, namely between IFRS and Solvency II. Consistency ensures comparability, avoids complexity, and thereby improves transparency to market participants.

Q2. Do you have comments on the following items in section 1 Background and rationale?

1.1 Amendments to the Solvency II Directive

IRSG answer

No

1.2 Mandate for draft regulatory technical standards

IRSG answer

No

1.3 Approach to the RTS

IRSG answer

We positively evaluate the explicit reference in the RTS on the approach that the National Competent Authorities (NCAs) should adopt in assessing the existence of the relations pursuant to Art. 212, (2) and (3), particularly when it requires NCAs to consider the significance, continuity, and consistency of the collected evidence to ensure an appropriate assessment and a proportionate framework.

Nevertheless, since both the Solvency II Directive and the Delegated Regulation 2015/35 lack a specific definition of significant, dominant influence and undertakings managed on a unified basis, we believe, that the approach to these RTS should aim to establish straight links between the RTS criteria and to better recognize how existing regulations and framework already define groups. This could be a useful approach to generally clarify the whole issue regarding Groups in Solvency II.

Q3. Do you have any other comments on the background and rationale section?

IRSG answer

No

Q4. Do you have comments on the following recitals in section 2?

Recital 1

IRSG answer

We believe that there should be an additional introductory recital explaining the scope of groups targeted with this RTS, in line with the background information of the consultation document. The objective is to avoid creating uncertainty and burden for existing groups where the scope of supervision is well established and stable and predictability for projects leading to an evolution of the corporate structure. The number of criteria listed in the RTS is so broad that without a clarification of the targeted scope, almost anything and everything could in principle be considered a group.

In light on this, we would suggest the addition of the following recital:

“This Regulation aims to facilitate the identification of undertakings which form a group, in particular with respect to groups which are not in the scope of Directive 2013/34/EU and horizontal groups, with no or weak capital links between undertakings. Also accounting frameworks, both international and national, should be used for this identification.”

Recital 2

IRSG answer

No

Recital 3

IRSG answer

This article stipulates that supervisory authorities need to consider the significance, continuity and consistency of the relevant evidence. We encourage EIOPA to clarify the role of the factors ‘continuity’ and ‘consistency’ and how a supervisory authority shall apply them.

Recital 4

IRSG answer

No

Recital 5

IRSG answer

Considering together the “dominant or significant influence”, this Recital (as other parts of the RTS draft do) implicitly presents significant and dominant influence as two similar relationships, that should be distinguished by the NCAs on the basis of the intensity with which the influence is exercised over another undertaking.

However, there are no provisions in these RTS that help measuring such intensity. Consequently, it’s rather difficult to determine whether an undertaking is exerting a dominant or significant influence by simply looking at the proposed criteria.

Since we believe that both the stakeholders and the NCAs would benefit from greater clarity, we would welcome the adoption of more precise criteria (e.g., thresholds) in order to overcome any uncertainty on this subject of significant vs dominant influence

Recital 6

IRSG answer

No

Recital 7

IRSG answer

Accordingly with our previous comments, we suggest specifying which criteria, all else being equal, indicate that two (or more) undertakings are managed on a unified basis and are not subject, for instance, to dominant influence.

We recognize that the differences between two factual situations could be very subtle, especially when it comes to distinguishing between a case of de facto control (not exerted through ordinary capital instruments) and a case in which undertakings are managed on a unified basis. This is why

we advocate for greater clarity in pointing out which criteria are better fit to outline each case included in Art. 212 (2) and (3).

Recital 8

IRSG answer

No

Recital 9

IRSG answer

No

Q5. Do you have comments on the following articles in section 2?

Article 1 - Control or ability to influence decisions

IRSG answer

As a general remark on the articles, we believe that while most of the factors listed in Articles 1 through 4 are generally meaningful to determine relevant relationships between undertakings, this draft RTS lacks guidance how strong a factor must be to conclude whether at least significant influence exists. Therefore, we recommend adding that if an undertaking holds, directly or indirectly, 20 per cent or more of the voting power of another undertaking, it is presumed that the relationship with the other undertaking indicates significant influence, unless it can be clearly demonstrated that this is not the case. Conversely, if an undertaking holds, directly or indirectly, less than 20 per cent of the voting power of another undertaking, it is presumed that the relationship with the other undertaking does not indicate significant influence, unless such influence can be clearly demonstrated.

A special comment to Art 1 paragraph 1, point b) – (iv).

It is understandable that the situation described in this point could indicate the existence of some kind of influence that is not exerted through contractual rights, but still this element should be carefully considered, making clear to what extent (e.g., outlining specific situations) and in combination with which other evidence this point could be taken into account by the NCAs. In particular, it is not clear what the Authority exactly means with the reference to “significant changes”. Without adding more specific provision in this regard, i.e. a method to assess the significance of the influence exerted, this criterion appears rather elusive.

Article 2 - Strong reliance on an undertaking or natural person

IRSG answer

We find that this Article 2 identifies a very detailed list of business activities and should be shortened. We generally concur that transactions between undertakings can in some circumstances have a significant impact on the business model or solvency and financial position of the respective undertakings. However, in our view this interpretation should be phrased more generally that a strong reliance is observed where such transactions create a dependency on tangible and intangible resource or capabilities of one undertaking which are critical to the ability of the other undertaking to continue its business model, for example, if the provision of critical tasks is delegated or outsourced to one undertaking.

Some of the topics listed might not be counted as 'strong reliance' and surely might be linked to some very specific business topics and should not be given bigger importance than they actually have taking into account the situation. E.g. Sharing software, using service providers or claim handling might only have very limited influence for the insurer. When identifying such a list it is not always a specific activity which results in identifying undertakings under dominant or significant influence. If every activity needs to be proved not to cause significant influence, the result will be very burdensome. It might be worth noting in this article that supervisors should not ask for information that most probably has very low impact in company or group level.

While we acknowledge that relationships between two (or more) undertakings could potentially be inferred from concurrent management responsibilities held by the same individuals, we question the validity of this criterion when it includes individuals who were previously employed by one of the entities.

In our view, it would be problematic for NCAs to demonstrate the existence of a link between firms based on individuals who no longer have any contractual or operational relationship with one of the entities under consideration. Therefore, we propose restricting the scope of this criterion to individuals who are currently employed in both (or all) undertakings.

Article 3 - Coordination of financial or investment decisions

IRSG answer

We find that this article 3 provides interpretive guidance to determine a coordination of financial or investment decisions between two or more undertakings. We recommend specifying that the interrelationships of the undertakings must be in the context of financial or investment decisions.

At present, the enumeration in this article could be interpreted to refer to any function or business operation of an undertaking. In addition, we believe that:

On Point (f), similar investment strategies or risk exposures of those undertakings:

- Without a more specific definition of what constitutes a similar investment strategy or risk exposure, we don't see how these criteria would be helpful to reach any conclusion about the eventual links between two (or more) undertakings.
- For instance, the fact that two undertakings have similar asset allocation (and therefore make analogous investment choices) does not necessarily imply that they are coordinating. Furthermore, it is worth noting that the risk exposure of two undertakings could show similarities due to many other factors aside from the exercise of influence (e.g. the similar business model of the companies), and not being a consequence of an intended behaviour at all.
- Even in combination with other evidence, it is not clear in which way this criterion would add decisive information to the others already considered.

and on the factor (g) 'similar or coordinated representation and feedback of those undertakings to the supervisory authorities' should be deleted as this is rather a formal aspect. It is not sufficient to conclude that this provides already evidence of coordinated financial or investment decisions.

Article 4 - Coordinated and consistent strategies, operations or processes

This Article 4 provides interpretive guidance to determine evidence of coordinated and consistent strategies, operations, or processes between two or more undertakings. We would highlight that:

- It should be specified that it is not sufficient that certain strategies, operations or processes are 'similar'. Rather, in our view a prerequisite for evidence of at least significant influence should be that policies adopted by the undertakings accord with each other to enable the undertakings to gain economic benefits. For example, from capital synergies or cost savings from harmonized processes and procedures that allow the use of identical parameters for target setting, performance measurement and steering etc.
- It should be specified that it is key that the alignment of policies is evident in relation to all substantive business activities of an insurance or reinsurance undertaking, i.e. product development and pricing, sales, distributions and marketing, investments (acquisitions and disposals), asset (and liability) management, supply chain. Also, for clarification, it should be specified that business activities such as IT, HR, accounting, compliance, regulatory, administration, which usually do not significantly contribute to the generation of outputs of insurance and reinsurance undertakings, on its own are not sufficient to justify dominant or significant influence.

- We recommend skipping the factor (b)(ix) “same or shared physical location of the head office of those undertakings or shared properties”. In our view this doesn’t provide sufficient evidence to assume that strategies, operations or processes are coordinated and consistent.
- We recommend skipping the factor (b)(x) “similar or coordinated representation and feedback of those undertakings to the supervisory authorities”. This is rather a formal aspect, however, not sufficient to conclude that this provides already evidence of coordinated and consistent strategies, operations, or processes.
- We recommend adding the following factor: “Coordinated setting of goals and targets for the deployment of (financial) resources”. In our view this provides evidence that decision-making, performance monitoring and steering occurs on the basis of uniform financial metrics which is important to achieve commercial benefits.

All-in-all, we would suggest checking whether this list could be substantially shortened. In order to find the relevance of operations between entities, one could ask the following question: Would it be likely that the end policyholders bear additional risk if the operation(s) in question was not counted with such a relevance that it would results these entities recognized as a group?

Please also refer to our comments under Article 3.

Article 5 - Entry into force

IRSG answer

No

Q6. Do you have any other comments on the draft technical standards in section 2?

IRSG answer

The criteria included in the RTS’s articles can be distinguished into two types. Most of the criteria assess the relationship between two (or more) undertakings by looking at their legal/financial links and/or the links between those undertakings relevant figures or employees; instead, some others take into consideration non-legal connections that could help the NCAs to identify the relations of significant influence, dominant influence, or unified management in the absence of other clear evidence. However, as we noticed in Q5, many of the criteria belonging to the latter type are rarely conditions that could alone suggest the existence of a specific relationship between two companies.

Although Recital (3) and the RTS Articles recursively require the NCAs to always consider the continuity, consistency and significance of any evidence collected, we recommend making it clear that this non-legal type of evidence shall always be accompanied by a clear reference to other,

stronger, factors, which unequivocally demonstrate the presence of durable relations between the considered undertakings, thereby establishing the existence of a group.

Q7. Do you have comments on the analysis of the following policy issues - Policy issue A?

IRSG answer

The policy option A.1 might be the best option indeed. Anyway, the amount of evidence should be in much lower level and based to some core criteria, as described in earlier answers.

Q8. Do you have any other comments on the impact assessment in the Annex?

IRSG answer

No

Q9. Do you have any other comments on the consultation paper?

IRSG answer

No

4. PROPOSAL FOR REGULATORY TECHNICAL STANDARDS ON LIQUIDITY RISK MANAGEMENT PLANS

Q1. Do you have general comments on the consultation paper?

IRSG answer

We welcome the opportunity to provide input on EIOPA's draft Regulatory Technical Standards (RTS) concerning the implementation of the Liquidity Risk Management Plan (LRMP) under the new Article 144a of the Solvency II Directive. We appreciate EIOPA's efforts to ensure that insurance and reinsurance undertakings maintain adequate liquidity to meet their financial obligations to policyholders and other counterparties as they fall due. Nonetheless, we believe that certain aspects of the draft would benefit from further clarification and refinement to better pursue the objectives of the Directive and align more closely with the practices of the insurance sector.

As a general remark, we find that it is essential the supervisors are provided with the necessary discretion to make case-by-case decisions, based on the undertakings of group's exposures and vulnerabilities to liquidity risks; the framework should not be perceived as overly rigid and binding. Therefore, we propose the deletion of the EUR 12 billion assets threshold. Instead, NSAs should adopt risk-based criteria, assessing undertakings on a case-by-case basis. The EUR 12 billion threshold is neither proportionate nor risk based.

We would also recommend including a definition of liquidity risk to one of recitals or to the first article. The basic idea of liquidity risk is already in Art 5 but it might be better to explicitly clarify this. Also, in the directive there seems not to be a definition. We would prefer the following definition:

> *Liquidity risk is the risk that cash resources, including the possibility to sell assets, are insufficient to meet cash needs towards policyholders and other claimants with contractual rights towards the insurer. Liquidity risk should always be considered at a whole balance sheet level within a given timeframe.*

The rationale for this, is that for insurers, liquidity risk should be identified at a company level, taking into account the liquidity profile of the asset allocation but also aspects of insurance contract cashflows, such as policyholder options to lapse and insurers options to make adjustments to the contracts. In addition, commitments to investment counterparties, strategic

partners and off-balance sheet items such as derivatives, existing liquidity tools (for example repurchase agreements), contractual arrangements and reinsurance contracts have an impact. These cashflow elements are connected to timeframes, usually so that for payments there's contractual agreements and for selling of assets, it is more connected to market liquidity. The important point here is that all cash needs doesn't need to be covered at a specific point in time. There are several good short studies about the topic, such as (CRO Forum, managing liquidity risk 2019, The Actuary, Liquid gold 2023, Geneva Association, managing liquidity risk 2024).

We would also like to underline that the heightened significance of liquidity risks has already led to a substantial enhancement in the surveillance of insurers liquidity risks. For instance, in 2020 EIOPA established a quarterly monitoring exercise regarding the liquidity position and projections of insurers with a potentially vulnerable liquidity profile. Hence, since 2021, a liquidity component has also been included in EIOPA's insurance stress test. For what concerns the peculiarities of the LRMP provided by the new Article 144a, we recommend paying attention to the following points:

- LRMP as a risk management tool. RTS should treat LRMPs as strategic and risk management tools that outline principles, processes, and governance structures, rather than as new reporting requirements. The RTS should provide companies with maximum flexibility in conducting internal liquidity analyses, enabling insurers and supervisors to agree on suitable methods for sharing results, similar to the ORSA process.
- Principle based approach. The RTS should propose a principles-based approach for the LRMP, avoiding the imposition of uniform quarterly updates or excessive granularity in the analysis, and without requiring detailed and standardized operational reports.
- Time horizon. We believe that, in line with the provisions of the Directive, short-term projections should be mandatory, while medium and long-term projections required only upon request by Supervisory Authorities, rather than automatically from companies with assets exceeding some fixed threshold.
- We support EIOPAs intention for principle-based standards on insurance LRMP reflected by options A1 and B.1 in the RTS with the following exceptions.
- The RTS should base its LRMP requirements on the principle "the level of which liquidity risk is managed", which has been the case for the last two EIOPA stress tests on liquidity. This will avoid the reporting of artificially consolidated liquidity risks at Group level in cases where liquidity is managed at the level of legal entities/portfolios and transfer of liquidity between entities and Group is excluded or very limited.
- The minimum requirements on flows to be reported are too prescriptive especially the differentiation between outflows related to "dividends" vs "SBB" vs "other payments to SH". One reporting item for those should be sufficient; differentiation can be appropriately covered in the qualitative part of the LRMP. Explicit reporting of flows

related to “bonuses” and “remuneration” is obsolete; respective flows can be reflected in a position “Op and other expenses”

- For UL/IL business and MA portfolios, insurers in scope should be free to define significance of liquidity risks considering the nature of the underlying business.
- We fear that the content of the RTS appears too prescriptive, as it seems to include several reporting requirements. The Directive amendments were primarily understood as a policy requirement, rather than prescribing frequency and content for reporting. Keeping the EC objective of reducing the regulatory reporting burden by 25%, it is key to ensure that any reporting standardisation does not go beyond what is currently foreseen in the RTS, for example, by introducing dedicated templates.
- We oppose the introduction of the liquidity coverage indicator introduced by EIOPA as a common liquidity risk indicator to be used by all (re)insurance undertakings, as these are not comparable due to individual differences.
- The minimum required quarterly reporting frequency for short-dated maturities (up to 3 months) and annually for longer-dated maturities (at a minimum 1 year) is excessive and will increase reporting burdens. If reporting is required, the frequency should be fixed, e.g. specific figures could be provided annually. In principle, the LRMP should be prepared once and reviewed at reasonable time intervals and updated only where necessary. We believe that the definition of long-dated maturities as “at least one year” is not appropriate and it should be made explicit that 1 year is the maximum in order to prevent extension of the scope of the liquidity risk management plan. EIOPA should avoid overly prescriptive definitions of time horizons and instead allow insurers the discretion to define them. It’s essential to preserve enough flexibility to cater to the varied needs of different companies.
- LRMPs should either be prepared at group or at solo level (not both), in alignment with the liquidity strategy of the undertaking. However, the RTS draft requires the development of LRMPs at both the group and solo entity levels. This dual-level requirement may create unnecessary administrative burdens, as some companies manage liquidity centrally, while others handle it at the solo entity level. The RTS should allow insurers to tailor LRMPs to their specific risk profiles and operational structures. If LRMPs are drawn up at group level that take sufficient account of the subsidiaries, no plans should be required at individual company level in line with article 246a of the directive. This does not appear clearly in article 10 of the RTS. It should also be clarified that when the liquidity risk is managed at solo level, the group LRMP would consist in tying together the solo liquidity risk analysis of the parent undertaking and the related undertakings within the scope of group supervision into a single document. Therefore, groups should also be given the choice not to use the exemption of article 246a and to only derive and submit solo LRMPs. In any event artificial group monitoring metrics are to be avoided. This is particularly relevant for the cash-flow projections under Art. 5 and the

liquidity coverage indicator under Art. 7 which should have no effect at group level when a solo approach is used.

Q2. Do you have comments on the following items in section 1 Background and rationale?

1.1 Amendments to the Solvency II Directive

IRSG answer

No

1.2 Mandate for draft regulatory technical standards

IRSG answer

No

1.3 Current requirements on liquidity risk management

IRSG answer

No

1.4 Principle-based and proportionate approach

IRSG answer

It is useful to remember that liquidity risk, a key concern for both policyholder protection and financial system stability, is generally well-managed and effectively supervised in the insurance sector. This resilience stems from the unique characteristics of the insurance business model, including:

- Illiquid liabilities: Claim payouts are typically triggered by insured events rather than policyholder decisions, especially in the non-life sector. Likewise, in the life sector the risk of mass lapses is mitigated by contractual features, such as cancellation penalties and tax charges.
- Asset Liability Management (ALM): Insurers generally align the duration and liquidity of their assets with their liabilities to mitigate liquidity risk.

For all these reasons, it is important to avoid additional requirements and imposing unnecessary burdens on the sector. RTS on LRMP should adopt a truly principles-based approach, outlining the criteria underpinning management principles without prescribing rigid frameworks.

1.5 Detailed explanation of the draft RTS

IRSG answer

No

Q3. Do you have any other comments on the background and rationale section?

IRSG answer

No

Q4. Do you agree that the draft technical standards achieve a proportionate implementation of the liquidity risk management plans?

IRSG answer

Please look our answer to other of the questions.

Q5. Do you have comments on the following recitals in section 2?

Recital 1

IRSG answer

No

Recital 2

The reference to IAIS work seems to be additional and not directly linked to Solvency II regulation. This can be part of supervisory practice but might be better to leave out from regulatory technical standards. Also, IAIS needs to consider liquidity risk in a global level where many of the risks also differ a lot from EU, which might even be confusing for many of the insurers operating solely in EU.

Recital 3

IRSG answer

No

Recital 4

IRSG answer

No

Recital 5

IRSG answer

No

Recital 6

IRSG answer

No

Recital 7

IRSG answer

No

Recital 8

IRSG answer

No

Recital 9

IRSG answer

No

Recital 10

IRSG answer

No

Recital 11

IRSG answer

No

Recital 12

IRSG answer

No

Recital 13

IRSG answer

No

Recital 14

IRSG answer

No

Recital 15

IRSG answer

No

Recital 16

IRSG answer

No

Q6. Do you have comments on the following articles in section 2?

Article 1 - Criteria for liquidity risk management plan over the medium and long term

IRSG answer

We find that the application of this article 1 for groups is unclear. It could mean that all subsidiaries in scope of group supervision are subject to medium to long term analysis whenever the group consolidated total assets are > EUR12bn and irrespective of the fact that the total assets of such subsidiaries could be well below EUR12bn. As a result, two identical insurance or reinsurance undertaking would be treated differently whether they are part of a group or not.

LRMP scope: Short Term Vs Medium and Long-term analysis

- The RTS propose that medium- and long-term liquidity analysis be mandatory for insurers and groups with total assets exceeding €12 billion. While the inclusion of this threshold may aim to capture medium and large entities, it does not fully reflect the original intent of the co-legislators. The Level 1 text clearly states that medium- and long-term plans should only be required upon request (Art. 144a: "….. draw up and keep up to date a liquidity risk management plan covering liquidity analysis over the short term, projecting the incoming and outgoing cash flows in relation to their assets and liabilities. When requested by the Supervisory Authorities, insurance and reinsurance undertakings shall extend the liquidity risk management plan to cover also liquidity analysis over medium and long-term…..").
- Expanding this requirement risks overburdening insurers and imposing a disproportionate compliance obligation. Furthermore, there is no clear rationale for automatically subjecting entities with assets exceeding €12 billion to these obligations, especially when they may not exhibit heightened liquidity risks.
- We recommend revising the RTS to ensure that medium and long-term analysis is triggered only when requested by the Supervisory Authorities, and in case of serious concerns regarding liquidity risk.

As mentioned in our general comments, we believe that the 12bn threshold should be removed and this would solve the problem. However, at a bare minimum, Article 1 should be amended to make it clear that subsidiaries in the scope of group supervision are only subject to medium to long-term analysis if the assets at legal entity level are indeed >12bn euros. In that case, we would suggest the below changes:

> *1. Supervisory authorities shall require insurance and reinsurance undertakings* ~~***and groups***~~ *with total assets that exceed EUR 12 000 000 000 to draw up and maintain up to*

date a liquidity risk management plan covering liquidity analysis over the medium and long term.

Finally, in Art 1(3) the list (a)-(e) can now be understood that liquidity risk should somehow be separated to certain part of the insurance (group) business. We agree that in order to identify the risk, different aspects need to be looked at. Anyway, this Article could be rephrased to clarify this. One can always identify certain business lines where there can be increasing cashflows or decreasing inflows but conclusions on potential liquidity risk should not be made in isolation.

Article 2 - Time horizon of the liquidity analysis

IRSG answer

We believe it important that the RTS should avoid overly prescriptive definitions of time horizons and instead allow insurers the discretion to define them. It's essential to preserve enough flexibility to cater to the varied needs of different companies. Across Europe, insurers utilize different time horizons, and each firm has its own interpretations of short, medium, and long term. EIOPA recognizes the necessity for flexibility in Article 2(3) of the draft RTS, explicitly permitting the consideration of alternative time horizons, as long as they are suitable for liquidity risk exposures and the timing of the undertakings. One should also notice, that liquidity needs are most often used to contractual agreements and ability to create liquidity to the markets where assets have been invested, these both side have also an impact on the time horizon of interest.

Article 3 - Structure, including Annex I

IRSG answer

No

Article 4 - Assumptions underlying the projections

IRSG answer

No

Article 5 - Cash flow projections

IRSG answer

We find that the level of detail required by the RTS for LRMPs appears excessive and risks creating unnecessary administrative burdens for insurers. While granular data can offer valuable insights into liquidity risks, its utility diminishes when it imposes significant obligations that outweigh its benefits. Companies should have the flexibility to prioritize projections they deem most relevant based on their liquidity management practices. For example, requiring cash flow projections for certain immaterial items may add complexity without meaningfully enhancing risk management.

Moreover, some of the proposed items (such as the projection of dividend or bonus distributions) are not related to contractual obligations towards policyholders and reflect a strategic decision of the company's management. Therefore, they cannot be anticipated during the year, and it is inappropriate to require their inclusion in the forward-looking analyses prepared by the companies.

The final RTS should strike a balance by allowing insurers to determine an appropriate level of granularity in their LRMP, focusing on the most relevant and material cash flows. This approach ensures that LRMPs remain strategic tools rather than compliance-driven exercises.

We also believe that a risk-based approach should also be adopted here, cash-flows that are unlikely to have a material impact on the entity level liquidity risk should be freed up from the analysis. Non-material or immaterial elements should not be taken into account. In particular, the level of granularity required in para 4 (g) to (j) is neither fit for an "at least" list of mandatory items nor proportionate to the low level of liquidity risk that they embed (all but coupon payments are discretionary). Therefore, it is suggested to replace para 4 (g) to (j) by a new 4(g): "distributions to basic own-fund items". This does not prevent undertakings to cover buybacks, bonuses etc. where material from a liquidity risk standpoint.

It could also be clarified that the ongoing cash flow projection is a best estimate projection according to best knowledge and business plans. This would also clarify Art 5(3) and Art 5(4).

The list in Art 4 does not acknowledge the cashflows stemming from mutual insurers benefits to their customers or other owner by the mutual insurance structure. The points (g) and (h) won't consider mutual insurers.

In Art 5(5) point (a) we suggest change the 'sales of liquid assets' into 'sales of assets' as there might be ongoing sales activities in place and also during say a 3-month timeline, different types of assets can be sold.

Article 6 - Buffers of liquid assets

IRSG answer

No

Article 7 - Liquidity risk indicators

IRSG answer

No

Article 8 - Overall assessment of liquidity risk

IRSG answer

No

Article 9 - Frequency of update of the liquidity risk management plan

IRSG answer

We believe that the proposal for quarterly updates for short-term liquidity analyses is disproportionate for the purpose of LRMP. If the need is to verify and monitor the liquidity of groups and companies, we would like to remind that in 2020 EIOPA has already established a quarterly monitoring exercise regarding the liquidity position and projections of insurers with a potentially vulnerable liquidity profile. LRMPs should remain a liquidity risk management tool, used for a strategic purpose, without becoming overly burdensome.

We stress that, even for insurers with material liquidity risks, Article 144b of Solvency II indicates that supervisory measures should be reviewed at least every six months. A more proportionate approach would align the frequency of LRMPs updates with the actual liquidity processes and governance structures of each insurer. For most insurers, annual or multi-annual updates should be sufficient unless significant changes in their risk profile occur.

Article 10 - Content and frequency of update of liquidity risk management plans at group level

IRSG answer

LRMPs should either be prepared at group or at solo level (not both), in alignment with the liquidity strategy of the undertaking. However, the RTS draft requires the development of LRMPs at both the group and solo entity levels. This dual-level requirement may create unnecessary administrative burdens, as some companies manage liquidity centrally, while others handle it at the solo entity level. The RTS should allow insurers to tailor LRMPs to their specific risk profiles and operational structures. If LRMPs are drawn up at group level that take sufficient account of the subsidiaries, no plans should be required at individual company level (in line with article Art

246a of the directive), but this does not appear clearly in article 10 of the RTS. It should also be clarified that when the liquidity risk is managed at solo level, the group LRMP would consist in tying together the solo liquidity risk analysis of the parent undertaking and the related undertakings within the scope of group supervision into a single document. Therefore, groups should also be given the choice not to use the exemption of article 246a and to only derive and submit solo LRMPs. In any event, artificial group monitoring metrics are to be avoided. This is particularly relevant for the cash-flow projections under Art. 5 and the liquidity coverage indicator under Art. 7 which should have no effect at group level when a solo approach is used.

At a bare minimum, we would suggest the following amendment to article 10(2):

2. The liquidity risk management plan at group level shall include:

(a) the information defined in Articles 4 to 8 for the ***participating insurance and reinsurance undertaking, insurance holding company or mixed financial holding company;***

(aa) the information defined in Articles 4 to 8 for the insurance or reinsurance related undertakings in the scope of group supervision in accordance with Article 213(2), points (a) and (b);

(b) a description of the mechanism for managing liquidity and for identifying and addressing liquidity needs at ~~individual and group~~ ***the*** level ***of the group or, as appropriate, the parent undertaking and of the insurance and reinsurance subsidiaries in the scope of group supervision in accordance with Article 213(2), points (a) and (b),*** on an ongoing basis and under stressed conditions. This shall contain a description of availability and transferability including in case of simultaneous liquidity needs within the undertakings of the groups.

Please look also our comments on article 1 regarding the application of medium to long-term analysis to subsidiaries within a group

Article 11 - Risk concentration and intragroup transactions

IRSG answer

We believe that in group level, if there was any needs to restrict the transferability of liquidity transactions, there needs to be careful consideration which ensures timely payments to policyholders and the insured parties more widely. Also, continuity of payments might be important when considering outsourced services, dividend and mutual share payments and payments towards other main stakeholders.

Article 12 - Entry into force

IRSG answer

No

Q7. Do you have any other comments on the draft technical standards in section 2?

IRSG answer

No

Q8. Do you have comments on the analysis of the following policy issues?

Policy issue A?

IRSG answer

No

Policy issue B?

IRSG answer

No

Q9. Do you have any other comments on the impact assessment in the Annex I?

IRSG answer

We refer to the expression at page 39 of the consultation paper, the preferred options paragraph, under which it is reported that “the information can be derived through the use of the data already contained in the QRTs”. It is useful to remind that cash flow data can have a different logic from accounting data reported in QRTs, and they may not always coincide. This divergence, combined with the high granularity of the requested data, is at the base of a potential increase in burden for companies, which should be allowed to conduct cash flow projection analyses without a rigid framework of requirements, but rather according to the specificities of their business.

Q10. Do you have any other comments on the consultation paper?

IRSG answer

No

5. PROPOSAL FOR REGULATORY TECHNICAL STANDARDS ON RELEVANT INSURANCE AND REINSURANCE UNDERTAKINGS WITH RESPECT TO THE HOST MEMBER STATE'S MARKET

Q1. Do you have general comments on the consultation paper?

IRSG answer

No

Q2. Do you have comments on the following items in section 1 Background and rationale?

1.1 Amendments to the Solvency II Directive

IRSG answer

No

1.2 Mandate for draft regulatory technical standards

IRSG answer

No

1.3 Approach to the RTS

IRSG answer

No

Q3. Do you have any other comments on the background and rationale section?

IRSG answer

No

Q4. Do you have comments on the following recitals in section 2?

Recital 1

IRSG answer

No

Recital 2

IRSG answer

No

Recital 3

IRSG answer

No

Recital 4

IRSG answer

No

Recital 5

IRSG answer

No

Q5. Do you have comments on the following articles in section 2?

Article 1 - Conditions and criteria for determining the relevance of the activities with respect to the host Member State's market

IRSG answer

As per the Solvency II directive, there is no standalone reinsurance market. The Solvency II directive is reflective of an economic reality whereby reinsurers engage in the life and non-life markets through treaty business, facultative reinsurance business and direct specialty business. And the other way around, primary insurers, as well as financial market participants, also engage in the reinsurance market. The draft RTS should comply with the Solvency II directive and base market share criteria on two markets: the life insurance and reinsurance market and the non-life insurance and reinsurance market.

We suggest the following amendments:

> *Article 1(1)(a)(ii) share of the insurance or reinsurance undertaking's activities in the host Member State, measured as the annual gross written premium income corresponding to the activities carried out by the undertaking in that host Member State, compared to the undertaking's total annual gross written premium income; or the market share held by the insurance or reinsurance undertaking in the host Member State's market, measured either in terms of whole insurance market, life insurance and reinsurance market or non-life insurance and reinsurance market; or*
>
> *Article 1(2). For the purposes of point (a)(ii) of paragraph 1, the market share shall be measured as a percentage of the annual gross written premium income or the gross technical provisions corresponding to the relevant activities carried out by the undertaking in that host Member State, compared to the total of the annual gross written premium income or gross technical provisions for activities in the host Member State's insurance market, life insurance and reinsurance market or non-life insurance and reinsurance market as appropriate.*

Article 2 - Entry into force

IRSG answer

No

Q6. Do you have any other comments on the draft technical standards in section 2?

IRSG answer

No

Q7. Do you have comments on the analysis of the following policy issue?

IRSG answer

No

Q8. Do you have any other comments on the impact assessment in the Annex?

IRSG answer

No

Q9. Do you have any other comments on the consultation paper?

IRSG answer

No

6. PROPOSAL FOR IMPLEMENTING TECHNICAL STANDARDS SPECIFYING THE METHODOLOGY TO DETERMINE THE SET OF SCENARIOS TO BE USED FOR THE PRUDENT DETERMINISTIC VALUATION OF THE BEST ESTIMATE FOR LIFE OBLIGATIONS WITH OPTIONS AND GUARANTEES

Q1. Do you have general comments on the consultation paper?

IRSG answer

We find this proposal for the prudent deterministic valuation of the BE for life obligation with options and guarantees a good attempt to find a solution on this important topic. The optional use of deterministic methods is appreciated as a means of proportionality, especially for SNCUs. However:

- The approach should remain optional, companies should be allowed to continue to use deterministic approaches when immaterial and companies should not be forced to use PDV when they are already applying a stochastic approach. By this, also the risk of 'how to use the scenarios' would be lower as companies would have option to partly use, modify or not-use. The proposed method and outcome seems not to fulfil the needs that life insurers have to this valuation task.
- Further clarity is needed on the applicability of specific models, such as Black-Scholes, within the scope.
- Greater transparency is required on the scope of undertakings impacted by the consultation.

We also find that in the proposed model:

- The 'prudency' can be questioned as the outcome depends highly on the liability profile, the conditions by which discretionary benefits are being distributed towards policyholders and the business model (e.g. investment strategy, financial condition, insurance policies, etc.). If 'prudency' is what is tried to be achieved, these certainly many ways to do this, such as adjustments and margins against the current discount rate, which then would contradict with market consistency.

- There is a high risk that the difference between two different valuations (say year-to-year) grows very high just because of the sample variance which in no ways converge based statistical principles with such low number sample. This will lead to confusing results and additional burden wen explaining the results (internal approval, audit, SFCR; etc.)
- The Solvency Capital requirement (SCR) aspect, especially the loss absorbency, has not been covered in the paper but is highly important as the value of future discretionary benefits usually are lower under SCR shocks. When using scenarios to calculate best estimate liabilities, one needs these scenarios produced also shocked by at least some of the SCR scenarios. For instance, both interest rate up and down scenarios based scenario set is usually crucial but also others, such as equity, spread and real estate shock might be needed.
- The proposed set of market variables doesn't contain all parameters that might be used in the valuation of future guarantees and options, which is understandable. Anyway, when insurers are valuing their liabilities and identifying additional crucial parameters (such as inflation, country specific spreads, illiquidity, etc.) they would need to use correlations and probability weighted deflators to link these into the given 10 scenario set.
- it is not 'deterministic' in a sense it is defined. In general terms a deterministic function is a function that is not probabilistic, in that given an input it will return the same results regardless of when that same input is entered. Moreover, a deterministic system is a system in which no randomness is involved in the development of future states of the system. A deterministic model will thus always produce the same output from a given starting condition or initial state. Using 10 scenarios might be the preferred approach and the 'deterministic valuation' is already a phrase used in the directive. Anyway, we would recommend explaining the approach bit more to avoid confusion.

Q2. Do you have comments on the following items in section 1 Background and rationale?

1.1 Amendments to the Solvency II Directive

IRSG answer

No

1.2 Mandate for draft implementing technical standards

IRSG answer

No

1.3 Information requests conducted by EIOPA

IRSG answer

No

1.4 Approach to the draft ITS

IRSG answer

No

Q3. Do you have any other comments on the background and rationale section?

IRSG answer

No

Q4. Do you have comments on the following recitals in section 2?

Recital 1

IRSG answer

No

Recital 2

IRSG answer

No

Recital 3

IRSG answer

No

Recital 4

IRSG answer

No

Recital 5

IRSG answer

No

Recital 6

IRSG answer

No

Recital 7

IRSG answer

No

Recital 8

IRSG answer

No

Recital 9

IRSG answer

No

Recital 10

IRSG answer

No

Recital 11

IRSG answer

No

Q5. Do you have comments on the following articles in section 2?

Article 1 - Financial market parameters

IRSG answer

No

Article 2 - Criteria for the set of scenarios

IRSG answer

No

Article 3 - Base methodology

IRSG answer

No

Article 4 - Adjustments to the set of scenarios

IRSG answer

No

Article 5 - Selection of volatilities

IRSG answer

No

Article 6 - Currencies

IRSG answer

No

Article 7 - Entry into force

IRSG answer

No

Q6. Do you have any other comments on the draft technical standards in section 2?

IRSG answer

No

Q7. Do you have comments on the analysis of Policy issue A?

IRSG answer

No

Q8. Do you have any other comments on the impact assessment in the Annex I?

IRSG answer

No

Q9. Do you have comments on the potential mathematical implementation of the methodology?

IRSG answer

No

Q10. Questions to stakeholders: Question 1 in Annex II –

The proposed interest rate model could be augmented with an additional drift term that would render its dynamics inherently risk-neutral. Under such an augmented model, the martingale equations (see section 3, subsection a.) would in theory be fulfilled.

However, the low number of scenarios would inevitably lead to deviations from martingality in practice. Moreover, the subsequent adjustments (see section 3) ensure that for the adjusted scenarios, the martingale equations are in any case fulfilled. Therefore, in order to keep the formulas as simple as possible, an additional drift term was omitted.

Do you agree with this approach? If not, what would be the advantages of an additional drift term in the interest rate evolution equation?

IRSG answer

Please look our other comments to this topic.

Q11. Questions to stakeholders: Question 1 in Annex II - The interest rate volatility targeting is based on the standard deviation of the spot rate changes for a fixed maturity. This is a simplification to the method used for the information requests where swaption volatility prices were calculated. Would you agree with this simplification?

IRSG answer

We find that the example of the scenarios produced by the model seem to produce scenarios with probability weight which seem not to give a risk neutral outcome, which they should. We believe that each 10-scenario should enable risk neutral valuation taking the risk-free reference rate at the time point. And if there was some additional prudency, this should be communicated in understandable way so that it can be further communicated to all interest groups (, managers, board, auditors, supervisors, investors, etc.).

Q12. Questions to stakeholders:

Question 3 in Annex II

In accordance with recital 7 of the draft ITS, the optimisation contains a penalty term for the weights. This penalty term ensures that the weights are not too low and thus all simulated scenarios contribute to the calculation of the best estimate.

Do you agree with the proposed design and parametrisation of this penalty term? If not, which alternative design would you propose and why?

IRSG answer

We don’t have comments to this question.

Q13. Questions to stakeholders:

Question 4 in Annex II

Do you agree with this approach for the derivation of the volatility parameters used in the simulation step? If not, could you propose a better technique in order to enhance the convergence of the optimisation algorithm?

IRSG answer

No, but no more specific proposals. Please see our answers to Q1.

Q14. Do you have any other comments on the potential mathematical implementation of the methodology in Annex II?

IRSG answer

No

Q15. Do you have any other comments on the consultation paper?

IRSG answer

No

7. TECHNICAL ADVICE ON STANDARD FORMULA CAPITAL REQUIREMENTS FOR INVESTMENTS IN CRYPTO-ASSETS

Q1. Do you have general comments on the consultation paper?

IRSG answer

We would highlight that Solvency II is a risk-based system and allows all assets to be invested where certain qualitative conditions are met (“prudent person principle”).

The overall risk of investments in crypto currencies might be limited because insurers are not much invested in such asset class directly. However, it might be included in funds and a look-through might apply.

A capital charge of 100 % is a non-risk based threshold – de facto not allowing investing in crypto assets. Total loss is possible but likely also for other asset classes (not penalised with 100 % capital charge).

Q2. Do you have comments on Section 1.1 'Call for advice'?

IRSG answer

No

Q3. Do you have comments on Section 1.2 'Context'?

IRSG answer

No

Q4. Do you have comments on Section 1.3 'Structure of the draft advice'?

IRSG answer

No

Q5. Do you have comments on Section 2.1 'Extract from the call for advice'?

IRSG answer

No

Q6. Do you have comments on Section 2.2 'Relevant legal provisions'?

IRSG answer

No

Q7. Do you have comments on Section 2.3 'Previous EIOPA advice'?

IRSG answer

No

Q8. Do you have comments on Section 2.4 'Other regulatory background'?

IRSG answer

No

Q9. Do you have comments on Section 2.5 'Identification of the issue'?

IRSG answer

No

Q10. Do you have comments on Section 2.6 'Analysis'?

IRSG answer

No

Q11. Do you have comments on Section 2.7 'Draft advice'?

IRSG answer

A capital charge of 80 % might be conceptionally more appropriate taking into account the prudent person principle. Also, diversification within this asset class has to be taken into consideration.

Q12. Do you have any other comments?

IRSG answer

Crypto assets are a dynamic market segment and therefore, regulatory and market developments should be monitored closely by supervisors.

More research and studies might be necessary to better understand the risk of certain cryptocurrencies.