

**Comments Template on  
Consultation Paper on EIOPA's second set of advice to the European  
Commission on specific items in the Solvency II Delegated Regulation**

**Deadline  
5 January 2018  
23:59 CET**

|  |   |        |
|--|---|--------|
| Name of Company:   | Dutch Association of Insurers   |        |
| Disclosure of comments:  | Please indicate if your comments should be treated as confidential:   | Public |
| <p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> <li>⇒ Do <b>not</b> change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool</li> <li>⇒ Leave the last column <u>empty</u>.</li> <li>⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below.</li> </ul> <p><b>Please send the completed template, <u>in Word Format</u>, to <a href="mailto:CP-17-006@eiopa.europa.eu">CP-17-006@eiopa.europa.eu</a></b></p> <p><b>Our IT tool does not allow processing of any other formats.</b></p> <p><b><u>The numbering of the reference refers to the sections</u></b> of the consultation paper on EIOPA's second set of advice to the European Commission on specific items in the Solvency II Delegated Regulation. Please indicate to which paragraph(s) your comment refers to.</p> |   |        |
| <b>Reference</b>   | <b>Comment</b>  |        |
| General Comment  | <p>The Dutch Association of Insurers appreciates the opportunity to provide comments on the 2<sup>nd</sup> advice of the Solvency II review provided by EIOPA. Before going into the details of the various proposals we would like to share some general comments and highlight our concern on the issues of <b>LAC DT</b>, the <b>Risk Margin</b> and the <b>Premium Volume</b> factor.</p> <p><b>Comparison against experience</b><br/>In the Solvency II legislation "comparison against experience" is an important principle. However, in</p> |        |

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the approach taken so far the availability of few (or only 1) data points should be scrutinised more thoroughly and not automatically lead to changes. Is one deviation already implying a trend or is it an incident?

Moreover, as Solvency II has only just entered into force, the Supervisory Review Process is also just applied. Especially for many insurers this is based on the submitted RSR (submitted 20 May 2017). The results required changes and dialogues between the stakeholders will be shown in the coming period of time. In our opinion, EIOPA should wait for this process to gain momentum and lead to the desired results. This will likely lead to convergence and less differentiations in practices across Europe.

EIOPA should also assess whether setting arbitrarily limits, restrictions and caps is consistent with the responsibilities of the SRP and individual NSAs.

**Danger of a piece meal approach**

Several parts of the Solvency II Standard Formula are advised to be altered by EIOPA based on several grounds. The Solvency position based on the Solvency II legislation is based on a careful balance between the protection of interests of current policyholders and the ability for future policyholders to afford insurance products. By changing some parts of this balance and not considering the overall framework, this equilibrium will be unbalanced and potentially biased towards current policyholders.

We question this piece meal approach. Any change should be considered in a holistic manner to balance the impacts.

**Inconsistencies**

EIOPA uses the low yield interest rate environment to argue the need for a change in the interest rate formula. EIOPA states that the current shock scenarios are inappropriate considering this environment. However, when assessing the risk margin, the interest rate sensitivity is just the result of the formula which should have been known by the industry, according EIOPA. To be consistent, if the current environment sparks the need for a revision of the interest rate risk, this surely would also spark the need for a rethink of the risk margin.

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EIOPA furthermore proposes some dramatic changes in the individual sub risk components. Not taking on board earlier industry comments, EIOPA does not assess the need for a change in the correlation structure. A significant increase within mortality risk would, in our opinion, also justify a change in the correlation between mortality and longevity risk (towards -.5). The change in the interest rate scenarios should therefore also result in a revision of the resulting correlation structure.

**Impact assessment**

EIOPA will include an impact assessment as part of the final advice towards the European Commission. In our opinion, this impact assessment should not only look at the individual components but also to the total impact of the proposed changes. In principle EIOPA, should look to all the proposed changes in the previous advices (including the UFR) and the current proposals in this consultation. This total impact should be assessed on whether the changes in the solvency position is actually warranted. Only that can in our opinion form the basis for the current proposed changes.

Finally, three issues in the advice are of particular important for the Dutch insurance market:

**1. LAC DT**

The Dutch Association of Insurers has assessed the overview provided by EIOPA in the first advice submitted to the European Commission and the content of the current consultation. Some of the 'key principles' included in the current consultation seems reasonable and justified in providing additional guidance. However we consider most of the proposed 'possible implementations of the key principles', which deviate from the principle based objective of the guidance, to be inappropriate simplifications that are not reflecting economic reality.

The outcome of LAC DT recognition/utilisation is significantly influenced by differences in both the local application of the Solvency II regime (e.g. application of transitional measures) and the local tax regimes. Thus keeping the EIOPA guidance principle based and allowing for practical guides by NSAs that can respond to local circumstances is therefore the most appropriate way to approach the observed differences.

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|              | <p><b>2. Risk margin</b><br/>Currently the risk margin is a discounted function of the projection of future required capitals and the cost-of-capital. The risk margin is directly tied to the definition of the reference entity. In the theory of the Solvency II legislation the best estimate together with the risk margin should result in a value which another reference undertaking would want to receive in order to take over the obligation of the recognised insurance contracts. In practice the risk margin can also be assessed as the first buffer to absorb uncertainties. If everything goes according to plan, the risk margin would be released to the own funds.</p> <p>The structure of the risk margin, including most of the assumptions are set well into the previous decade and one should question not only the cost-of-capital but the total functioning of the risk margin.</p> <p>Next to the relative size of the risk margin one should also consider the assumptions underlying the reference entity (for example the reference entity is able to use the Volatility adjustment, the impact of the investment decisions (minimalising market risk) on the investment management expenses embedded in the best estimate, etc.) and the manner in which the projected capital requirements are aggregated (independence over years).</p> <p><b>3. Premium Volume</b><br/>The proposed changes for the Premium Volume might have big impact for non-life insurers. However, in our opinion there is no single reason to propose any changes here. In the actual regulations the premium volumes are calibrated well (1/200). In the formulas for determining the Premium Volume we could not identify any gap. As the proposed changes only leads to an increase of SCR's, especially for the one-year contracts, we have the opinion that the premium risk will be overstated. A different initial recognition date for an insurance contract is not consistent with the calibration. In our opinion EIOPA is making a mistake here.</p> |  |
| Introduction |   |  |
| 1.1          | <p><i>Appropriateness of formula</i><br/>If EIOPA would chose to amend the volume factor for premium risk, we would expect that the projection factor should also be adjusted in order to remain the 1/200 calibration.</p>   |  |

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|       | <p>The formula as presented does suggest that the expected loss can occur: volume factor times standard deviation times 3. However this is not always the case. Especially within the Line of Business Medical Expense a cost is only incurred when medical treatment is actually provided to the policyholder. If there is no treatment, there is no costs and thus no loss. The formula does not recognise this restrictive nature within the medical expense.</p> <p>For example, within the 12 months' time horizon, you cannot build a hospital, staff this hospital and make this operational. In the various countries in Europe the medical care utilisation is very much almost in full capacity. Therefore the approach of using the volume factor for premium risk and reserve risk is not appropriate. For health catastrophe risk the Solvency II legislation also introduced country factors (see Annex XVI).</p> <p>For other contracts there are limits in the possible claim amounts e.g. for example the policyholder is only able to claim a certain number of treatments with a medical professional. The price per medical treatment is a fixed during the accident year.</p> |  |
| 1.1.1 | <p>In section 20 EIOPA has described the reasons for choosing a specific Line of Business eligible for recalibration eg. Less than 100 undertakings or 20 countries. Following the table (22) HME would not satisfy these criteria. The question is if these 5 LoBs are still representative enough. Furthermore see also our remarks made in 1.1</p>  |  |
| 1.2.1 |  |  |
| 1.2.2 | <p>If data has been excluded from the analysis, did EIOPA provide a feedback to the providers of the information regarding the exclusion and the reason?</p>   |  |
| 1.2.3 |  |  |
| 1.2.4 |  |  |
| 1.3   | <p>EIOPA did use the same method as applied in 2011. However, insurers using methodology are asked to reassess in a frequent manner whether the methodology applied is still appropriate. We would expect EIOPA do have a similar requirement. But following the consultation we see no such assessment. Is the used approach still valid for the various lines of business and does the approach still provides appropriate capital requirements following the structure of the underlying legislation and characteristics of the individual markets across Europe while maintaining a level playing field in methodology.</p>  |  |

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| 1.3.1   |   |  |
| 1.3.2   |   |  |
| 1.3.3   | If the calibration is done regardless of size of the portfolio, does this not generate a bias. On generally would assume a big portfolio to have more diversification effects e.g. outliers have generally lower impact. This effect is disregarded. Why does EIOPA assume this approach to be appropriate?   |  |
| 1.3.4   |   |  |
| 1.3.5   |   |  |
| 1.4   |   |  |
| 1.4.1   |   |  |
| 1.4.2   |   |  |
| 2.1   | <p><i>General remarks</i></p> <p>EIOPA has been asked to see whether the volume factor is to be adjusted based on the experience gained during the transitional period and first year of application of Solvency II. Basically what is being asked of EIOPA is to perform a Profit and Loss attribution test for premium- and reserve risk. Similar to insurers who have an endorsed internal model.</p> <p>The current proposals and assessment is only based on technical analysis and is not based on the actual experience. Based on the experience is there any evidence that the current volume factor would lead to an understatement of the risks for premium risk based on the actual performance of the insurers?</p> |  |
| 2.2   | <p><i>Economic substance one-year contracts</i></p> <p>In this section the text of recital 43 is mentioned. In this text reference is made towards the actual economic substance of insurance contracts. Based on the economic substance policyholders will treat one year contracts as such, as one year contracts. Therefore the economic substance from a policyholder point of view is a volume factor of 12 months (for a one year contract) regardless of options for renewals and proposals for renewals made.</p>   |  |

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|       | <p><i>New business</i><br/>Future renewals are always based on a new proposal made in the future by an insurer in which the terms and conditions and pricing is set at that moment to reflect any possible changes in the risk profile and expectations.</p> <p>Following the fact that the insurer is to determine the capital requirement on the reference period following the predetermined shock and or scenario, the insurer is to assess the impact to existing and future business over the next twelve months following the actual scenario.<br/>Based on the scenarios/factors to be applied at the reference date, an insurer is to assess the impact on its existing and future new business. If the insurer is not able to change any future terms and conditions or pricing following the predetermined scenarios/factors occurred at the reference date, the insurer would run more risk, for example premium. But if that same insurer is able to reflect the changed circumstances occurred at the reference date in terms and conditions and pricing, the insurer would not run that risk and no capital requirement should be calculated.</p> <p><i>Volatility</i><br/>The volume factor should be defined in such a manner that the capital requirement do no behave in a volatile manner. It should be avoided that any recovery measure could be: do nothing, as the passing of time would see a reduction in the capital requirement (no saw pattern as presented in paragraph 172).</p> |  |
| 2.3   |   |  |
| 2.4.1 |   |  |
| 2.4.2 | <p><i>Volume factor and risk</i><br/>Based on the recognition date of an insurance contract the insurer is to assess which risk are run. EIOPA identifies "expected loss" and "unexpected loss". The latter is divided into "permanent rise" and "temporary rise".</p> <p><u>Recognition date</u></p>   |  |

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If the insurer is bound to the contract before the insurance cover starts, the insurer could run some additional risks which are not included in the prices set. The risk run are actually only related to a rise in claim handling costs (for example increase in salary costs of maintenance personnel repairing damaged cars). The calibration of the premium risk is based on claims triangles which does not differentiates the period before the start of the insurance cover and the period for which the insurance cover is actually run. This implies that the risks which are run in the pre-cover period are also included in the claim triangles on which the calibration is based. Requiring an extension of the volume factor to the pre-insurance cover period would imply that these risks are doubled in the calculation of the capital requirement.

**Proposal:**

For the volume factor the start of the volume factor should coincide with the start of the insurance cover in order to avoid the double treatment and resulting capital requirement.

Recognition date and FPfuture

The analysis on the recognition date would also imply that FPfuture for one-year contracts should be zero.

Volume factor for one-year contracts

Based on the analysis above the volume factor for one-year contracts should be restricted to the maximum of  $P_s$  and  $P_{s,last}$ .

*Unclear how the alpha is set and impact*

EIOPA proposes to include an "alpha" for FPfuture, however it is very much unclear how the impact of this "alpha" is calculated. EIOPA does not provide clarity on the percentage multi-year contracts are included versus the one-year contracts. As EIOPA states in paragraph 150, the impact varies per LoB and per type of contract. The assumption regarding the percentage of 1-year contract is not explained, therefore it is very much unclear how EIOPA comes to the impact.

In one jurisdiction a recalculation of the SCR was done for the Lines of Business medical expense

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|       | <p>where all contracts are one year contracts with a start of the insurance cover at 1 January of each year, that study indicated that the impact would be an increase of the SCR by 15% (€1 bln).</p> <p>Several remarks:</p> <ul style="list-style-type: none"> <li>- In the current Standard Model there is already a different treatment between life and non-life risks. With the introduction of the new definition of FPfuture the difference between life and non-life will be wider.</li> <li>- A portfolio with only one-year contracts in the current situation has no FPfuture and in the new situation there is <i>Alpha</i>*FPfuture; in the presented example a total increase of 47% is calculated with an <i>Alpha</i> of 30%. It's not clear how the 30% exactly is derived. Should the factor <i>Alpha</i> not depend on the compilation of the portfolio? Suggestion: zero Alpha for (re)insurers with only one-year contracts and about 100% for (re)insurers with only long-term contracts.</li> <li>- In general: for undertakings with only one-year contracts this is not a risk. In theory they don't have a portfolio after one year because all the contracts are expired; so why calculating an additional capital-charge?</li> <li>- Trying to get as stable results as possible, the new definition of FPfuture will not create that. Because of the compilation and season patterns of the portfolio and the new definition of FPfuture on top of that, there will be more volatility.</li> <li>- It's not a simplification adapting the definition of FPfuture, which is a goal of EIOPA.</li> </ul> |  |
| 2.4.3 | <p>We would favour option 1. However based on the analysis on the recognition date, the actual risks run by the insurer and the calibration for Non-Life and NSLT health insurance contracts the volume factor should coincide with the start of the insurance cover and should not be extended to the period before the insurance cover starts. This avoids the double counting of the risks faced by the insurer in this pre-insurance cover period.</p> <p>This concept should also be applied to the definition of FPfuture in the definition of the volume factor.</p>   |  |
| 3.1   | EIOPA is asked to assess costs / benefits of more granular approaches. It is a missed opportunity   |  |

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|   | that they have not considered re-assessing the correlation between mortality and longevity risk. We believe that this correlation arises largely because of different ages for the two different 'products'. The proposed calibration (both at age 60) suggests that the correlation between mortality and longevity risk should be '-1'  |  |
| 3.2   |   |  |
| 3.3   | Stakeholders proposed prudence to take account of parameter and model risk. As an assessment, EIOPA has chosen to use two models. This doesn't do the trick. Longevity risk is primarily trend risk. Changes in Best Estimates are primarily driven by changes in the assessment of trends. Uncertainty about trends should therefore be the main factor driving longevity risk.  |  |
| 3.4.1   |   |  |
| 3.4.2   | <p>194: This is a crucial, incorrect and untested assumption:<br/> <i>Crucial:</i> In the underlying model, the size of the error term is independent of age, and independent of time. The only real 'model' therefore (which completely drives the results) is that risk (of all products for any one client) is one-to-one related to life expectancy.<br/> <i>Incorrect:</i> The sensitivity of liability valuation to age does not go through life expectancies: Each possible future age is presumed to contribute equally to the risk of a product of a particular client. This may be meaningful for longevity products (from a certain age onwards), but not for mortality products (that often end at, say, age 65).<br/> This leads to systematic biases. For the portfolio as a whole, this approach puts far too much weight on mortality risks at very high ages, since it is incorrectly deemed to apply to all products at all ages. In this case, we are concerned that it leads to exaggerated mortality risks.<br/> <i>Untested:</i> This assumption should have been tested. How do liability valuation risks depend on age? If changing mortality tables result in different Best Estimates, which ages are most affected?</p> <p>208:<br/> There is an important assumption that the error terms are independent over time (i.i.d.). This assumption should be made explicit.</p> <p>1. One-year longevity risk largely arises from the fact that mortality trends are stochastic. Here, <math>\Theta</math> is regarded as fixed, i.e. non-stochastic. Risk therefore appears in the form of parameter risk. This model is not by itself suited to capture longevity risk. One needs time-series of realistic</p> |  |

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estimates of  $\Theta$  (given some estimation period). Indeed, there is a dependency between the BE estimation period and the risk estimation period. If the BE is driven by short-term histories, risk will be relatively large.

2. EIOPA was asked to examine granular approaches to estimate risk. You cannot do that with a model where the size of the error term is independent of age, and independent of time. The assumption 194 is crucial.
3. Are we missing something? There is a whole (t,x) matrix of  $\eta$  terms to be explained, but one a line-item ('t') of error-terms? Our guess is that you need another error term dimension.
4. A crucial assumption relates to the fact that the size of the risk term is independent of the logit level. Did you check that assumption? Our guess is that higher logits lead to higher absolute risks (except perhaps at the highest levels).

'Same' applies to 209:

There is an important assumption that the error terms are independent over time (i.i.d.). This assumption should be made explicit.

1. One-year longevity risk arises from the fact that mortality trends are stochastic. Here,  $\Theta$ , particularly  $\Theta_1$ , is regarded as fixed, i.e. non-stochastic. Risk therefore appears in the form as parameter risk. This model is not by itself suited to capture longevity risk. One needs time series of realistic estimates of  $\Theta_1$  (given some estimation period). Indeed, there is dependency between the BE estimation period and the risk estimation period. If the BE is driven by short-term histories, risks will be relatively large.
2. EIOPA was asked to examine granular approaches to estimate risk. You cannot do that with a model where the size of the error term is independent of age, and independent of time. The assumption 194 is crucial.
3. Am we missing something? There is a whole (t,x) matrix of  $\eta$  terms to be explained, but one two line-items ('t') of error-terms? Our guess is that you need another error term dimension.
4. A crucial assumption relates to the fact that the size of the risk terms is independent of the level of logit. Did you check that assumption?

209: We understand the negative correlation between mortality risk and longevity risk to be related

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to the stochasticity of  $k_2$ . However, how would you create correlation between two trends with stochastic error terms? Also on the basis of a single age, 60?

217: How are the parameters estimated? As indicated above, the choice of estimation period is crucial for the results? Why are the parameters only estimated once, rather than repeatedly over time?

217: The risk dimension in this figure (downward sloping with age) is driven by the use of remaining life expectancies (downward sloping with age), and by a square-root of time formula for i.i.d. distributed mortality changes over time (here downward sloping, because young people have longer remaining life expectancies). Younger people have longer life expectancies, and hence have more i.i.d. terms added.

221: Figure 3.2 relies on the use of life expectations as a measure of risk. Our guess is that the difference between the proposal and the current Standard Formula is largely driven by an (untested) assumption about the relationship between the size of the shocks and mortality rates. It seems useful to at least test this assumption. Our guess is, therefore, that figure 3.3 is purely driven by this link between the size of the error term, and the size of the logit.

236: We understand that politics has intervened to prevent younger people from paying relatively more for their retirement products. If this is how politicians think, should we then also introduce regulation to the effect that (not just sex, but also) age discrimination is not allowed for insurance companies? Arguably, trend risk is greater for younger people. If they want insurance companies to take on that risk, they should pay. If current calibrations are meaningful, higher risk costs for one group will be exactly offset by lower risk costs for another group.

237: If we were to believe the life expectancy approach suggested here, mortality stress should probably be calibrated at a lower age as longevity stress, since average age at exposure is lower. Figure 3.1 suggest that this implies a higher risk (longer life expectations). But lower product lives argue against that.

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There are several components within the paper regarding the mortality/longevity analysis to which we would like to make a few comments:

1. On Page 53 the 7 countries, which are used for the analysis, are presented. However, no substantiation is provided on why these countries are selected. It would be good if EIOPA presents information on why this is a good representation in order to calculate a Standard Formula shock.
2. It is mentioned on page 53 that the HMD database is used. As a result of this, data from more recent periods are ignored (depending on the country it can be that data for 2013-2017 is not taken into account). Why haven't statistics from Eurostat been added to the HMD?
3. When calculating and considering a shock it is important to also take into account the Best Estimate. In case a certain methodology results in a (substantially) higher Best Estimate, it could be justified to have a lower shock since the Best Estimate already accounts for future improvement.

This is relevant to ensure that different models are treated equally (having a lower BE for the CBD model (assuming that is the case) and equal relative shock for a CBD and LC model results in both a lower BE and a lower shock with a CBD model).

This point is also important to ensure a level playing field between companies using a CBD model and those using a LC model.

As the mortality table plays an important role in the determination of the mortality risk and longevity risk and in the best estimate, a consistent approach is needed. However, in several member states the underlying characteristics are not the same. In some jurisdictions the mortality table in the best estimate already includes some future projections, which could therefore be part of the shock if compared to those jurisdictions where the mortality table does not include those future projections of possible improvements in the table. Therefore, the shock should accommodate this differences in order to avoid under/over statement of the risks.

3.4.3

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|         | EIOPA changes the scenario for mortality risk, purely based on a technical analysis (see also our comments above). The calibration was performed some years ago and a recalibration should only be warranted if and only if 1) new techniques are available which would improve the calibration; or 2) if events have taken place which would change the 1/200 scenario dramatically. To our knowledge both have not occurred.  |  |
| 4.1     | No comments   |  |
| 4.2     |   |  |
| 4.3     |   |  |
| 4.4     |   |  |
| 4.5.1   |   |  |
| 4.5.2   |   |  |
| 4.5.3   |   |  |
| 5.1     |   |  |
| 5.2     |   |  |
| 5.3     |   |  |
| 5.4.1   | <u>Fire</u> :We do not completely understand what the simplification EIOPA proposes entails (paragraph 308). It somewhat looks like the simplification that could be used with QIS5, but with QIS5 the simplification required the Total Sums Insured for Residential, Commercial and Industrial and there were factors applied to the totals. This new simplification seems to require the Top 5 risks in each risk type, but it is completely unclear from which sample these Top 5 risks should be picked (Total portfolio, a 200 meter radius). And how does the simplification work once the Top 5 risks have been selected? Are factors used, like QIS5 or is the gross loss equal to the accumulation of the Top5 risks? The consultation paper does not give any clarity and EIOPA should provide clarification, for example giving an example. |  |
| 5.4.2   |   |  |
| 5.4.2.1 |   |  |
| 5.4.2.2 |   |  |

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| 5.4.2.3   | The suggested simplified calculation (for identification of the largest risk concentration within a 200m radius circle) allowing for reducing the number of considered buildings to (a minimum) the top 5 exposures per risk type (residential, commercial, industrial) isn't worked out in detail. So it's not possible to discuss or challenge this any further.   |  |
| 5.5.1   |  |  |
| 5.5.2.1   |  |  |
| 5.5.2.2   |  |  |
| 5.5.2.3   | <ul style="list-style-type: none"> <li>- The definition of "vessel" should be worked out in more detail.</li> <li>- The advised threshold of € 100.000 is not specified and it is arguable that this isn't applicable for all types of vessel. For example there is a difference between an old professional fishing vessel and an expensive new private fishing vessel. The Sum Insured can be the same, but they have a different risk profile.</li> </ul> |  |
| 5.6.1   |  |  |
| 5.7.1   |  |  |
| 5.7.2.1   |  |  |
| 5.7.2.2   |  |  |
| 5.7.2.3   |  |  |
| 6.1   |  |  |
| 6.2   |  |  |
| 6.3.1   |  |  |
| 6.3.2   |  |  |
| 6.3.3.1   |  |  |
| 6.3.3.2   |  |  |
| 6.3.3.3   | There are no detailed arguments why option 5 is taken. It isn't a simplification to analyse and identify risk zones with comparable risks (formulation 2), but nevertheless it can be worth it by reducing required capital compared to formulation 1 (where the part "other" is allocated to the zone with the highest risk weight).  |  |

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| 6.4.1   |  |  |
| 6.4.2   |  |  |
| 6.4.3.1   |  |  |
| 6.4.3.2   |  |  |
| 6.4.3.3   |  |  |
| 6.5.1   |  |  |
| 6.5.2   |  |  |
| 6.5.3.1   |  |  |
| 6.5.3.2   |  |  |
| 6.5.3.3   | An additional unit ( <i>MaxGrossExposure</i> ) is introduced in the proposed calculation. Because these data have to be collected, it doesn't mean a simplification. It also means adapting the models in place right now.   |  |
| 7.1   | <p>We question the timing, the piece meal approach and the need for the change of the interest rate risk scenarios.</p> <p>The interest rate risk scenario do play a vital role in the whole determination of the capital requirement for Market Risk. Not only by means of the own calculation of interest rate risk, but also because the scenarios determine with correlation matrix is to be used. EIOPA uses the current low yield interest environment as the main reason for the change. Naturally if interest rates are low, the relative shocks will be low. The same goes for high interest rate environment. The calibration for the interest rate risk was performed on historic analysis in which a kind of environments were assessed, various shapes of the discount rate were observed and the resulting statistical assessment to arrive at a 1/200 scenario.</p> <p>Since the end of the crisis, low yields have been observed (whether or not caused by interventions of central banks and politicians). That does not justify automatically a recalibration without a more thorough analysis of the whole structure and calibration. Do all correlation apply in a similar fashion, is there still a case for differences in correlation matrices between up/down ward scenarios. How the change does influences the calculation of the Risk mitigation effect within CDR-</p> |  |

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|   | type 1 calculations, impact on tiering, etc? How should the UFR be included in the scenarios, especially in the wake of EIOPA's suggested change in the UFR methodology and calibration?  |  |
| 7.2   |   |  |
| 7.3   | <p>In 455, EIOPA describes the manner in which the discount rate is used as input for the stress scenario. In conjunction with the proposal of EIOPA regarding the determination of the UFR, the maximum allowed shock of 15 bp (see approach) should be aligned with the outcome of the scenario from point 90 onwards. A 20% shock will assume a higher outcome than justified according to EIOPA methodology.</p> <p>Basically after 90 years the scenario should be the max of 20% or 15 bp.</p> <p>In determining an interest shock including UFR, the applied method needs to be consistent with the valuation method of the technical provision.</p>   |  |
| 7.4.1   |   |  |
| 7.4.2   | <p><b><u>Shifted Approach.</u></b> It is not clear what the underlying distribution of the shocks are, are they fit to a normal distribution? (the daily observations should be put in some sort of distribution to extract the 1-in-200 point) To what extent does this lead to the observations made.</p> <p>If shifted approach is not severe enough, why not adding a floor as is done with proposal A and B?</p> <p><b><u>Proposal A</u></b></p> <p>This approach is not realistic, especially the 200bp floor makes it not acceptable for us. No argument that rates dropped significantly, but that was also when they were a lot higher than they are now. I don't think anyone believes rate can drop to about -2.5 to -3%.</p> <p><b><u>Proposal B</u></b></p> <p>There is some merit to this approach, though it is rather complex because of the mixture applied. (we don't agree with article 521)</p> <p>If the intent is to have a "realistic" down shock, we predominantly would advise to add a floor on the shifted approach instead. Also in this approach it is not clear what the underlying distributional assumption is to derive the 1-in-200 shock.</p> <p><b><u>Re A and B</u></b></p> <p>It was not clear whether the grading post 20 years was EUR specific, or would essentially be based on the LLP of the respective currency?</p> |  |

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522: we agree that the downward shocks are possibly in isolation not appropriate, currently. However, the scenarios and calibration is based on the 1-200 event and the fact that currently there is some possible understatement does not directly justify a change in the scenarios. This would imply that in any changed interest environment, the scenarios should be changed again and again.

523: we don't think we have seen enough evidence to discard shifted approach; or haven't seen any argumentation why a "combined" approach would not be appropriate in the shifted approach (as was done with the affine approach).

524: We agree that proposal a is simple. Though it is too simple and will yield incentives that won't result in good risk nor business decisions for an insurance company.

EIOPA dismisses the shifted approach based on a 10 years historic assessment and the fact that on three occasions an anomaly has been observed. We question the quick conclusion that this approach is not correct. EIOPA should assess the reasons for the three mentioned events, the duration of the breaches and the cause before dismissing the shifted approach. In our opinion the simplicity should be a dominant reasons to use this method.

525: we absolutely don't think proposal A is good; furthermore we want to see more evidence on how proposal B's distribution form is described. The shifted approach still carries our preference, and we would like to see a better justification why shifted approach wasn't considered as the basis for a "combined" approach.

EIOPA proposes two options for consideration. Both option will in any case require more complex calculations and also will produce counter intuitive results. Furthermore, it could be questioned, that in case the yield curve will have a different shape than currently observed, whether the shock is assumed appropriate in that circumstance. The original calibration as laid down in the Regulation and tested in the various QIS should not be changed only because of the observation of the low yield interest environment. If EIOPA has the impression that the calibration is insufficient, a total

7.4.3

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|       | <p>overhaul of the scenarios for Market Risk and the resulting correlation structure/approach should be considered.</p> <p>Notwithstanding the fact that we question the timing, the piece meal approach and the need for a change in the interest rate risk scenario.</p> <p>In order to acknowledge the concerns regarding the downward shock, we propose EIOPA to refer back to the original proposal as CEIOPA made when the first advice was given to the EC.</p> <p>In EIOPA's technical specification for the preparatory phase the following was described:</p> <p><b>SCR.5.26. Irrespective of the above stress factors, the absolute change of interest rates in the upward and downward scenario at any maturity should at least be one percentage point. When, for a given maturity, the initial value of the interest rate is negative, the undertaking should calculate the increase or decrease of the interest rate as the product between the <math>s^{up}</math> or <math>s^{down}</math> shock and the absolute value of the initial interest rate.</b></p> <p>We would suggest EIOPA to consider this proposal as an alternative to the proposals made, which should alleviate the concerns ion the low yield environment.</p> |  |
| 8.1   |  |  |
| 8.2   |  |  |
| 8.3   |  |  |
| 8.4.1 |  |  |
| 8.4.2 |  |  |
| 8.4.3 | <p>When assessing the market concentration risk module, EIOPA should consider those exposure concentrations where there is an actual additional risk compared to the already determined capital requirements.</p> <p>One of the exposures where we have the impression an additional capital requirement is not warranted, is for exposures of (strategic) participations where the (re-) insurer is the one who holds all the shares. Strategic participations are included in the equity risk module and therefore also</p>  |  |

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|   | <p>subject to the market concentration risk module. However the (re-) insurer hold all the shares, why should a capital requirement for concentration risk be added. The (re-) insurer has a direct interest in the participation, the participation is important for the insurer, there is an alignment of interest, and the management is not assessing this as two entities, but basically assuming this as one. The regulation has some "exemptions" in article 184, but these are too limited and should be extended to strategic participations and investment related undertakings (see advice as submitted by EIOPA to the European Commission). For groups any intra-group transactions between the insurance part and the banking entities should also be exempted aligned with article 184 2 (b) (i).</p> <p>Regarding the options presented by EIOPA, we would favour option 1. The CQS is used multiple times in the formula for Market concentration Risk. First to determine the threshold and secondly to determine the risk factor. In the second option, only a reference to the risk factor is made.</p> |  |
| 9.1   | No comments   |  |
| 9.2   |   |  |
| 9.3   |   |  |
| 9.4.1   |   |  |
| 9.4.2   |   |  |
| 10.1  |   |  |
| 10.2  |   |  |
| 10.3  |   |  |
| 10.4.1  |   |  |
| 10.4.2.1  |   |  |
| 10.4.2.2  |   |  |
| 10.4.2.3  |   |  |
| 10.4.2.4  |   |  |
| 10.4.2.5  |   |  |
| 10.4.3  | The approach proposed by EIOPA will imply an enormous increase in the administrative burden for (re-) insurers who are willing to use the CQS2 for these exposures.   |  |

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|   | <p>We have the impression that not many insurer will go the extra yards, to get this CQS, they will simply not invest in these opportunities.</p> <p>The criteria proposed by EIOPA will also disqualify any start-ups and new initiatives. Some of the criteria are such that almost none fo the possible exposures will be able to comply, for example the requirement for a semi-annually audited financial data in combination with “corporate with limited liability”.</p> |  |
| 11.1  |   |  |
| 11.2  |   |  |
| 11.3  |   |  |
| 11.4.1  |   |  |
| 11.4.2  |   |  |
| 11.4.3  | <p>The approach proposed by EIOPA will imply an enormous increase in the administrative burden for (re-) insurers who are willing to use the equity type 1 for these exposures.</p> <p>We have the impression that not many insurer will go the extra yards, to get this category, they will simply not invest in these opportunities.</p>  |  |
| 12.1  | No comments   |  |
| 12.2  |   |  |
| 12.3  |   |  |
| 12.3.1  |   |  |
| 12.3.2  |   |  |
| 12.3.3  |   |  |
| 13.1  |   |  |
| 13.2  |   |  |
| 13.3  |   |  |
| 13.4.1  |   |  |
| 13.4.2  |   |  |

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| 13.4.3 | <p>EIOPA compares the relative importance with QIS4. This is a flawed analysis. The earlier QIS exercises were meant to test alternative approaches and the calibration. Since the QIS4 calculations many elements are changed in the Solvency II legislation. Therefore this comparison is not correct. The QIS exercises were also very much biased towards bigger companies as smaller companies generally not participated in the studies.</p> <p>The Counterparty default risk also depends on the economic development on the economic balance sheet and can also be considered to be volatile. This will have an impact on the relative size of the risk compared to the BSCR.</p> <p>If all derivatives are included in the CDR module, it should be very explicit that non are treated in the spread risk and market risk concentration risk in the Market Risk module to avoid duplications of capital requirements.</p> <p>We agree with the change in definition of the hedge strategy as proposed by EIOPA. Thus, assessing the total rather the individual derivative.</p> <p>We agree with the proposed changes in the calculation of the LGD on derivatives.</p> <p>In the clarification of the hypothetical SCR, EIOPA should clarify how undertakings should use the "change in sign" within the interest rate risk and resulting change in correlation matrix if this is not consistent with the actual dominant interest rate scenario. For example within the determined market risk the scenario is upward, but assessing an individual type 1 exposure, the dominant scenario in the hypothetical scenario would be downwards.</p> |  |
| 14.1   |   |  |
| 14.2   |   |  |
| 14.3   |   |  |
| 14.4.1 |   |  |
| 14.4.2 |   |  |

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| 14.4.3  | <p>When assessing the appropriate treatment, EIOPA should look at the actual counterparty default risk following the CCP cleared derivatives, the structure of clearing members, how the EMIR regulation and CCP are to deal will possible defaults of clearing members, etc. This implies, the recovery rate and LGD will be significantly different compared to non-centrally cleared derivatives.</p> <p>The risk of non-recovery is very slim as the various "lines of defence (risk waterfall)" is introduced: 1) entry criterion set by the CCP for Clearing members; 2) Margin required by Clearing members to the CCP; 3) Default funds/clearing fund; and 4) other financial measures of the CCP. These "lines of defence" actually reduce the LGD significantly and should be factored in the capital requirements. Reference to an "A" rated bank is not reflecting this "lines of defence". Either the risk should be zero or reference should be made to an "AAA/AA" rated bank to reflect the effects of the "lines of defence".</p> <p>The F'-factor should also reflect the "lines of defence", the argument that the 90% should be unchanged does not reflect all the additional safety measures in the case of a default of a clearing member versus the bilaterally cleared derivatives without the additional safety measures as required by EMIR. By not changing the F'-factor, there is no additional incentive for central clearing based on the effects of the standard Formula. One could even question the additional requirements following the EMIR legislation of for example the effects are not reflected in the LGD and F'-factor.</p> |  |
| 15.1  |   |  |
| 15.2  |   |  |
| 15.3  |   |  |
| 15.4.1  |   |  |
| 15.4.2  |   |  |
| 15.4.3  |   |  |
| 15.4.4  | <p>We agree with the approach proposed by EIOPA<br/>EIOPA should refrain from the word "strict" as asset managers or investment managers have always some freedom within limits to make appropriate investment decisions. A too prescriptive manner will imply that the interest of policyholders are not always served. The managers of the CIU</p>  |  |

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|   | should be able to have some room to manoeuvre within the mandates agreed upon by the various stakeholders.   |  |
| 16.1  |  |  |
| 16.2  |  |  |
| 16.3.1  |  |  |
| 16.3.2  |  |  |
| 16.3.3  | We are the opinion that option b as mentioned in para 1253 should be applied by EIOPA. A group should be able to apply the look through approach, if this is applied by a subsidiary part of the group in order to preserve consistency and a risk based outcome and to avoid additional administrative burdens. Not having this approach would deviate from the principles how the group is to calculate the Solvency position on the level of the ultimate parent (e.g. being the one economic entity).  |  |
| 17.1  | The Dutch Association of Insurers has assessed the overview provided by EIOPA in the first advice submitted to the European Commission and the content of the current consultation. Some of the 'key principles' included in the current consultation seems reasonable and justified in providing additional guidance. However we consider most of the proposed 'possible implementations of the key principles', which deviate from the principle based objective of the guidance, to be inappropriate simplifications that are not reflecting economic reality.<br>The outcome of LAC DT recognition/utilisation is significantly influenced by differences in both the local application of the Solvency II regime (e.g. application of transitional measures) and the local tax regimes. Thus keeping the EIOPA guidance principle based and allowing for practical guides by NSAs that can respond to local circumstances is therefore the most appropriate way to approach the observed differences. |  |
| 17.2  |  |  |
| 17.3  |  |  |
| 17.4.1  |  |  |
| 17.4.2  | <u>Key principle 1</u><br>We generally agree with the principle as set out in 1296-1299. The core of this principle is that the  |  |

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compliance with MCR and SCR plays a role in the utilisation of LAC DT. An undertaking that does not meet the MCR and/or the SCR after a shock event should determine its actions to recover within the relevant periods, in line with its recovery planning. The undertaking should reflect the impact of these measures in its determination of future taxable profits fully in accordance with the articles 138 and 139 of the Directive 2009/138/EC. We subscribe to these notes since they are principle based.

However, we do not believe that a prescribed formulaic approach as set out in 1300-1304 is appropriate as it does not reflect the own circumstances of individual undertakings and jurisdictions. In case a formulaic approach is applied as a simplification, it should reflect the own funds after shock including the impact of recovery measures as set out in the recovery plan. Further shouldn't such formulaic approaches be prescribed in general but it can be made available on an optional basis in case undertakings prefer a simplified approach instead of a more appropriate detailed analysis reflecting own circumstances.

Key principle 2

In paragraphs 1308-1313 EIOPA discusses "future profits stemming from new business" and in paragraphs 1314-1325 the "projection horizon of future profits stemming from new business". In considering new business, EIOPA should distinguish between new business which is acquired outside the existing portfolio and new business stemming from policy renewals in the existing portfolio. The uncertainty of both is different. The (re-)insurer will have to assess the impact of the underlying lapse scenario and will project future renewals based on the post-shock policyholder base. The future lapse assumptions should be consistent with the lapse assumptions made within the best estimate. Any resulting business horizon for renewals should be consistent with these assumptions. As such, renewals of existing policies from existing customers should not be treated the same as new business from new customers. A cap on renewals of existing policies is hence not at all reflecting the economic reality and is contradicting with Solvency II principles. Key principle 3 We agree with the observations in 1314-1315 that the determination of future profits from new business should reflect the situation after a shock event. We also agree that the uncertainty may have increased after a shock event. We refer to our comments on principle 2 above that this uncertainty is different for renewals and other forms of new business. Whilst we agree that

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uncertainty should be factored into the projection of new business, we do not agree that this uncertainty should be addressed by simplistic limitations as applying a 50% haircut and/or a 5 year time horizon as proposed in 1316 to 1320. Such simplistic limitations do not reflect the actual facts and circumstances of specific undertakings. Whilst these may be helpful simplifications for smaller undertakings that are not able or willing to reflect specific circumstances, it should not be prescribed in general.

Key principle 4

We agree with the principle in 1321 that the horizon over which new business can be projected should reflect the relevant uncertainty. However uncertainty should be expressed within the relevant assumptions, not by arbitrarily limiting the length of the projection horizon. Therefore we disagree with the assumption in 1322 – 1325 that the period of the projection horizon in a business plan is a relevant period for LAC DT. The business plan serves completely different purposes and is therefore normally restricted to 3 to 5 years, whereas the duration of cash flows of existing portfolio is often much longer. For the determination of LAC DT it is necessary to determine taxable profits over a period that corresponds in a way with the predictable/"given" run-off of the portfolio. Whilst for new business sales a limitation of the projection horizon- dependent on the type of new business - might be reasonable, we strongly disagree with using a business plan horizon as a general principle for determining future taxable profits.

Key principle 5

We strongly disagree with paragraph 1326 that the return on assets should be limited to the excess of assets over the technical provision. All general account invested assets will in fact have a taxable return.

Whilst we agree with the observations in 1327-1330, we have significant concerns with the proposals in 1331-1335 to restrict estimated future investment returns to risk free returns only. The purpose of the LAC DT assessment is to determine a best estimate of future taxable profits, including future taxable investment returns. Taxable investment returns represent by definition the actual investment returns in future periods, and not only the risk free component. Whilst we recognize that estimating future investment return is inherently uncertain, and may need further

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alignment between undertakings, simply restricting actual investment returns to a risk-free rate is inappropriate. The asset base – and hence the projection of future taxable profits – should however reflect the post shock solvency position of the undertaking, taking recovery measures into account. Furthermore, we believe setting the returns on assets in future profit projections equal to the risk-free return does not comply with Guideline 9 that states that “*When making projections of taxable profits and assessing the likelihood that sufficient taxable profits will arise in the future, an undertaking should (...) e) ensure that when making projections of taxable profits, these projections are both credible and broadly **consistent with the assumptions made for other projected cash flows**<sup>1</sup>. In particular, the assumptions underlying the projections should be consistent with those underlying the valuations of technical provisions **and assets on the solvency balance sheet**”.* When fair valuing the assets for the Solvency II balance sheet, the future expected cash flow projections encompass the full asset cash flow and will not be limited to risk free component. Whilst actual investment returns after a shock event should benefit from the recovery of markets after a shock event, we understand the comments that undertakings should be careful in assuming recovery of market returns. However, this “pull-to-par” (recovery of markets) effect is different from the economic phenomenon that the after shock value of fixed interest investments increases back to the notional redemption amount in case the instrument is held to maturity. Obviously, default events in the fixed income portfolio are taken into account in this held to maturity component. This increase is an automatic mechanism that is independent from any market development, but is sometimes also referred to as “pull-to-par”. Allowing to reflect this latter phenomenon is fully compliant with economic reality and IFRS (IAS 12) and should therefore be allowed irrespective from any discussion on reflecting market recoveries. The redemption at par is also experienced in the recent financial crisis (2008/2010).

Key principle 6

A core assumption under the LAC DT and, in general, all Solvency II estimates is that of going concern. It is inconsistent with that core assumption to assume that an undertaking would only have 5 years of own funds that generate a return. Moreover, limiting the period over which future

<sup>1</sup> Underline in the citation is added by the Dutch Association of Insurers.

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profits can be taken into account does not specifically address uncertainty to our opinion. As such, the proposal in 1338 is inappropriate.

Allowing reflection of future returns on own funds over a projection horizon that is related to the technical provisions is more appropriate as it reflects uncertainty in a company specific way and it is equally applicable for undertakings that have different characteristics. We understand that the alternative proposal in 1340 is more in line with such an approach. However, more details are needed to understand how this alternative proposal would be made operational.

We believe that post-shock run-off patterns of technical provisions, related levels of own funds and investments, and LAC DT should be consistent. Therefore, any arbitrary limit on the projection horizon used for (only) LAC DT is inappropriate.

It is also important to realize that instantaneous shock losses under Solvency II are different from the actual emergence of losses under the relevant tax regime. The latter can be (and in many cases is) a different and much longer time period. As such, recognizing a shorter projection period for the recovery of losses that emerge over a much longer period is inconsistent and inappropriate. Projection periods should therefore reflect the deferral of the recognition of tax losses caused by the SCR shock.

Key principle 7

Regarding the future management actions (FMA) we understand that any increase of uncertainty from incorporating potential management actions is undesirable. However we consider de-risking as a relevant and realistic FMA that may be necessary to recover from a shock scenario and, therefore, cannot be ignored. We understand the concern about higher new business profits after de-risking when applying the formula from 1300. However, as undertakings should include the impact from measures taken in line with its recovery planning, de-risking should be reflected where relevant. If properly reflected, de-risking would result in lower asset returns from de-risking the asset mix and therefore lower new business profits. The concern sketched in 1349 hence is not a valid argument when taking the restriction above into account.

The Dutch Association of Insurers is of the opinion that recapitalisation from external sources should remain available to be factored in for LAC DT provided the undertaking is sufficiently prudent and can demonstrate an appropriate level of realism based on financial reputation, market

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position, historical evidence and/or other suitable substantiation.

Key principle 8  
We agree that there should be a solid system of governance in the LAC DT calculation. We don't agree that it should be specific the Actuarial Function who should play a role in the validation of the assumptions and calculations. This could also be done by the Risk Management Function or the Internal Audit Function.  
We don't have any objections against the recommendations in 1360 and 1361 to include the calculation of LAC DT in the ORSA report, but it must be prevented that the reporting requirements are unnecessarily increased.

Key principle 9  
We understand the supervisory need for disclosure and consider transparency as a contribution to a level playing field. However the disadvantage of increasing transparency is the additional costs of the increasing reporting effort. Further attention is needed for the highly competitive sensitive nature of the additional disclosures that may be harmed by expanded public disclosure.

**Comment on possible simplified calculation of LAC DT**  
We are of the opinion that the proposed simplification in 1369-1378 only should be applied optional and never as an obligation. For if we understand the features of the formulaic approach correctly, the main factor determining the horizon for future taxable profits to be factored in is the number of years during which carry forward of taxable losses is possible under local tax law.  
However this term is far shorter than especially the term during which Life Insurance entities recognize taxable losses stemming from the BSCR shock loss according to Dutch corporate income tax law. This could lead to artificial capping of both the taxable loss component that can be taken into account and the profits that are realistically available for set off.  
Another shortcoming is the formula proposed is that the excess of real world asset returns above risk free forms a relevant source of taxable profits for Dutch Insurers but this component is fully neglected.  
Where the Dutch Association of Insurers rejects such a formula as an obligatory simplification for

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|   | the entire sector it can with reference to the proportionality criterion of article 88 of the Delegated Acts (referred to in paragraph 1369), be helpful if the application is optional and is only part of regulations in optional format.  |  |
| 17.4.3  | <p>A key characteristic of the recommendations in the current consultation appears to be the reduction of the uncertainties that are inherent in making projections of future taxable profits. We recognise these inherent uncertainties and are open to further actions that reduce uncertainty and/or improve consistency. However, it is important to realise that certain components of the LAC DT calculation are more certain than other components. Because of these different levels of uncertainty we disagree that this uncertainty in calculations should be addressed through general restrictions, limits and other arbitrary interventions as proposed in the current consultation since it does not reflect economic reality. These 'one-size fits-all-measures' will impact various (re-) insurers in a different manner based on the tax legislation, risk profile and risk management and will undermine the core objective to reflect economic reality and respect the relevant tax regimes.</p> <p>The suggested approach in the current consultation does not leave enough room for more appropriate ways to address uncertainty. The Dutch Association of Insurers is of the opinion that applying a set of different scenarios is a more appropriate way to address uncertainty. By prescribing this, harmonization can be achieved alternatively, yet at the same time tailored to local circumstances. The proposals should further allow for more realistic terms during which the undertakings may be expected to remain in business, for instance at least to serve the existing portfolio. Furthermore, realistic assumptions should be allowed, without arbitrary limitations or caps.</p> <p>Especially if insurance entities have capabilities to support more complex modelling, more refined approaches to address uncertainty should be acceptable than the sometimes rather rough measures (term limitations, prescribed formulaic approaches) proposed in the consultation paper. Therefore it is logical to maintain the local regulatory process. Whilst for those (re-) insurers that want to use less sophisticated methodologies in line with their nature, scale and complexity the proposed simplifications may be helpful, it is not appropriate to mandate these simplifications for all (re-) insurers.</p> <p>Where (local) supervisory guidance can be better tuned to local business environments, local SII</p> |  |

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|   | application and local tax regimes the Dutch Association of Insurers does not believe that inserting generic limitations in the Delegated Regulations for Solvency II would be an appropriate way to address uncertainties that are inherent to projecting future profits.   |  |
| 18.1  | <p>The relative size of the risk margin on the balance sheets of Dutch insurers is higher compared to other European countries. The cause of this are the characteristics of typical Dutch insurance products. Dutch life insurers have second pillar group pension schemes insured. Funeral insurers have whole life insurances where the final payment has to be applied for funeral expenses. Both pensions and funeral insurances are characterised by their long durations. Because of these long durations the cumulative SCRs are that big. For the Dutch non-life insurance policies, the risk margins are not significant different from their European peers.</p> <p>Specialised funeral insurers have the disadvantage that they have less diversification possibilities which could reduce the SCR in general. These insurers have relatively the highest risk margins.</p> <p>In the Consultation paper there is nothing mentioned about the level of the SCR. This level is largely determined by the mass lapse shock percentage. For funeral insurance and group pension insurance, the actual percentage of 40% is not realistic for this type of insurance policies. According to historical data of insurers it never happened that there was a higher lapse percentage than 4%. We therefore propose to adjust the calculation of the risk margin in such way that it reflects the insurance risks more realistically. Already, the Solvency II legislation applies a distinction between retail and non-retail life insurance contracts.</p> |  |
| 18.2  |   |  |
| 18.3  | 6% CoC does not reflect the developments in the financial markets in the last years we believe. As this CoC percentage is fixed since the latest QIS studies, we think that it should be adjusted downward. Deriving a CoC percentage with CAPM or comparable methods can lead to much lower CoC-percentages depending on the beta. Applying the same beta for non-life, short-life and long-life business seems rigid and is not reflecting the reality appropriately.   |  |

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Application of the VA when discounting the cumulated future SCR's makes a difference, especially for insured portfolios with long durations. As LTG measures will be assessed in the ongoing review (2020), we expect that the impact on the risk margin will be included as well in that review.

18.4.1

Size of the risk margin

For representative Dutch insurance companies we found significant higher ratios as mentioned in paragraph 1399

Based on actual available data we have the following information:

- RM for the six most important life insurers (not the insurance group, but the entity which holds the specific license). Assumed is that they have a large portion of pensions in their portfolio
- RM for the three largest specialised funeral insurers
- SCR's for the above mentioned insurers
- Ratio's: RM/(RM+BE) and RM / SCR

| € mln  | BE+RM  | RM    | RM/(RM+B<br>E) | SCR   | RM/SC<br>R | PIM/<br>SF |
|--------|--------|-------|----------------|-------|------------|------------|
| AEGON  | 62.450 | 2.261 | 3,62%          | 3.213 | 70,4%      | PIM        |
| Achmea | 47.274 | 1.577 | 3,34%          | 2.389 | 66,0%      | SF         |
| ASR    | 40.941 | 1.660 | 4,05%          | 2.654 | 62,6%      | SF         |
| NN     | 86.860 | 3.653 | 4,21%          | 3.771 | 96,9%      | PIM        |
| DL     | 40.870 | 1.924 | 4,71%          | 1.891 | 101,8%     | SF         |
| Vivat  | 48.496 | 1.791 | 3,69%          | 2.295 | 78,1%      | SF         |
| Monuta | 650    | 254   | 39,05%         | 376   | 67,4%      | SF         |
| DELA   | 2.592  | 682   | 26,33%         | 821   | 83,1%      | SF         |
| Yarden | 925    | 185   | 20,04%         | 160   | 116,1%     | SF         |

18.4.2

Due to the different nature of non-life and life insurance business we believe that deriving one general CoC based on one single beta is too general. We propose to make a distinction based on the long-term/short-term characteristics of the insured portfolios. For pensions and funeral in NL the durations could be more than 60 years while standard non-life is limited to only five years

18.4.3

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| 19.4.1  |   |  |
| 19.4.2  | <p>We support the EIOPA position that there is a strong case not to align the Principal Loss Absorption Mechanism with the banking regime.</p> <p>In part this position is backed by the underlying differences between Bank and Insurance Tier 2 capital securities. In our view there is a higher degree of difference in quality of regulatory capital permanence between Bank Tier 2 and Additional Tier 1 than there is between Insurance Tier 2 and Restricted Tier 1. Hence from a prudential oversight perspective it makes much more sense to arrange for PLAM triggers specifically linked to Tier 1 coverage of risk weighted assets in Bank oversight than it does in relation to the Tier 1 quantum in the capitalization of an Insurance undertaking compared to its capital requirement.</p> |  |
| 19.4.3  | <p>We appreciate further guidance on how EIOPA views partial write-down to be implemented. We do however feel that the fact that the consultation paper is silent on write-up is a missed opportunity to provide additional clarity to the regulators and market for capital securities.</p> <p>In 1647 the wording 'as a minimum' gives the impression that the recommended writing down is perceived as this recommendation is mandatory. We advise to omit 'as a minimum'.</p> <p>We do not recognize, and disagree with, the statement that terms and conditions specifying partial conversion into equity will be challenging from a legal perspective. We propose to apply partial conversion using the same proportion as detailed by EIOPA in paragraph 1474, option b.</p>                         |  |

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| 19.4.4  |   |  |
| 19.5.1  |   |  |
| 19.5.2  |   |  |
| 19.5.3  | <p>We fully adhere to the proposition not to apply a haircut, calibrated to the effective tax rate, to the notional of Restricted Tier 1 instruments when considering them as eligible own fund items.</p> <p>We further comment that the requirement for the forecasts on tax effects to be confirmed by the undertakings auditor might prove problematic. We suspect that auditors may be hesitant or unwilling to provide the requested statements, causing undue delay. This may add to market volatility in the undertakings capital market securities which is unwanted in an already stressed environment.</p> |  |
| 19.5.4  |   |  |
| 19.6.1  |   |  |
| 19.6.2  |   |  |
| 19.6.3  | <p>We would like to point out that the statement in 1504 is not entirely correct. A regulatory call of a capital instrument will not reduce own funds of the undertaking since for an unspecified reason, the security must have disqualified as an own fund item in the first place in order to trigger a regulatory call.</p>   |  |
| 19.6.4  | <p>Will article 71.2.4.i not put regulators in a position of conflict? First the regulator will probably have implemented a new interpretation of the regulation that has potentially triggered the regulatory call to arise. Subsequently it needs to make an assessment under this clause to confirm if the regulatory event has occurred. We propose to leave the determination to the issuer.</p>   |  |
| 19.7  |   |  |
| 20.1  |   |  |
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| 20.4.3 | <p>We support EIOPA's advice to retain the 20% limit for Restricted Tier 1.</p> <p>With regard to the alternative provided by option 2, i.e. strengthening of the quality of Restricted Tier 1 should the 20% limit be changed we note the following:</p> <ul style="list-style-type: none"> <li>• 1541 b, does EIOPA imply that if the instrument is not called before year 20, the instrument can never be redeemed? This would be an unprecedented term for a debt security.</li> </ul> <p>1541 c We assume that the disallowance for partial write-down is to be applied mutatis mutandis to conversion instruments? I.e. the full conversion is also proposed with this clause?</p> |  |
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