	Comments Template on Discussion Paper on the review of specific items in the Solvency II Delegated Regulation	Deadline 3 March 2017 23:59 CET
Name of Company:	Dutch Association of Insurers	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
	Please follow the following instructions for filling in the template: ⇨ Do **not** change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇨ Leave the last column empty. ⇨ Please fill in your comment in the relevant row. If you have no comment on a paragraph or a cell, keep the row empty. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. **Please send the completed template, in Word Format, to CP-16-008@eiopa.europa.eu** **Our IT tool does not allow processing of any other formats.** The numbering of the questions refers to the discussion paper on the review of specific items in the Solvency II Delegated Regulation.	
Reference	**Comment**	
General Comment		
Q1.1		
Q1.2		
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Q1.5	The challenge is to determine what the most negative impact on the core capital is. For life insurers, it is difficult to determine what the most negative impact is due to the unpredictable and erratic progress of claims. At present we calculate this by taking 40% of average premium income. Our suggestion is to include this possibility in the SII legislation.	

Q1.6		
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Q2.1	The request by which insurance and reinsurance undertakings shall nominate one or more ECAIs to be used for the calculation of the Solvency Capital Requirement according to the standard formula should be removed (paragraph 2). Any available ECAI should be able to be used by the insurer. Furthermore the use of the ESMA database can therefore be used to its fullest extent. For plain vanilla exposures only one rating of an ECAI should suffice. The requirement of multiple ratings will also require the use of multiple ECAIs and related fees in order to use the ECAI throughout the Solvency II calculations and disclosure. Section 5 of article 4 does provide an additional reliance of ECAIs by superceding the rating of	

	an ECAI above that of an internal assessment. For very complex products such as securitisations already a requirement exists of multiple ratings of ECAIs. The requirement as laid down in this section does not incentivise insurers to develop own internal assessment systems. The use of multiple ECAIs should be sufficient, In any case the scrutiny of ECAIs and credit assessments would be part of an effective risk management system and "prudent person principle". Article 4 could be improved by broadening the scope of external credit ratings and agencies allowed to be used in the Standard formula. This is particularly important for those assets that are unrated by ECAIs, and would reduce the incentive for arbitrage that exists whereby BB rated assets are treated worse from a capital perspective than unrated assets, which can incentivise investors not to have the credit quality of their investments rated at all. Spread module does not distinguish between senior (except IG covered bonds) and subordinated debt, as most of the information is assumed to be incorporated in rating. Treatment of subordinated debt separately from senior debt, with more attention to seniority, embedded covenants, types of structures, etc can be investigated. Charges for risk-free and special exposures (zero) are related to the issuer type (not the rating), this approach can be used for wider range of assets. One way to approach this may be to allow Standard Formula investors to rely on ratings derived from the Internal model of other Insurance Companies, where such rating model is also audited by ECAIs, independent experts such as EY / KPMG, as well as approved by the local regulator. The specific application of this would be for funds with unrated underlying assets that are managed by an Insurer/ Asset manager, itself having a validated model. This is particularly relevant for the private debt market, which is of material size, and which is expected to absorb a significant amount of the funding gap to the real economy that is being left by exiting commercial banks. This may be a way to ensure consistency of intellectual rigour without the exceptional cost and unwanted publicity that would come with seeking public ratings. A further improvement would be to clarify the position on private ECAI ratings which are typically point-in-time. Can these be considered acceptable under certain circumstances? For example if refreshed periodically (eg annually). Con of this is that for standard model, different models will be used. The pro is that for each specific asset class expert models can be built and implemented, instead of a more generic approach which may penalize or benefit asset classes the wrong way. For internal rating models, one can consider mapping on validated PD numbers (which also take into account the duration of an instrument) rather than Ratings as these letters stand for	

	different PDs, dependent upon the asset class. Another way to approach is to have analogue of NAICS designations, which will reduce reliance on external ratings and will create one standard for the markets. In any case, it needs to be ensured that one cannot choose one (arbitrage) rating type or an approach, but has to take into account all of the selected (and possible) internal or external credit assessments. Always taking the linear mid score rather than "2nd best" might reduce incentives. Ensure that no NSA arbitrage can exist in which one NSA is much more strict than another. In case non-public ratings are allowed, a very clearly described and a very prudent process for sign-off should be established. The ratings should be used for internal risk and portfolio management purposes, as well as be basis for the FV valuation, where applicable. Internal ratings produced solely for capital charge calculations should not be allowed. In case internal model of insurers are allowed, large undertakings, especially with approved internal models, will be in better position versus small and medium size insures. This inequality is not welcome. In case of any approach chosen, the basic tools should be available for all market players, not only the few large undertakings. It is important to mention that the current credit spread and CPD capital charges are (partially, with expert overlay) based on historical market data which incorporates effect of public ratings (ie, implied PD scales and EL). If more types of credit risk assessments are allowed for the purposes of capital requirements, it might require review of related capital charges as well.	
Q2.2		
Q2.3	The use of ECAIs with the current formulas cannot be avoided. However for several exposures EIOPA could provide some alternative solutions to reduce the reliance on external credit ratings by using alternatives. For example of government bonds and related expoxures EIOPA could use an alternative sources for mapping the the credit quality steps by using data from supernational organisations like the IMF or the OECD. For exposures of financial institutions subject to prudential regimes such as the CRD/CRR or Solvency II the Solvency II legislations already allow the use of the Solvency ratio (or equivalent) as basis for mapping. However this is always second to the availability of an ECAI rating. This should be the otherway round. If a Solvency ratio is available this should be used first. By assessing specific categories of exposures and assessing alternatives the system becomes less reliant on ECAIs which is in line with the regulation of reducing the reliance on ECAIs.	

	Regarding risk limits. Pro : concentrate on fundamental variables such as country or sector. Cons : ratings often are widely used, can be difficult to replace in some areas or will require efforts.	
Q2.4		
Q2.5		
Q2.6		
Q2.7	The use of the market implied ratings and accountancy-based measures do no assess the volatility of the spreads but assesses the actual risk of default of the counterparty. In our opinion this should be the focus of the spread risk. According to article 102 of the Directive 2009/138/EC, the SCR is to be calculated based on the going concern principle. This implies that insurers will amintain exposures on their economic balance sheet as long as these are aligned with the related insurance obligations. Insurers are generally more concerned on the default risk and ability to avpid forced sales. Several exposures have the characteristic of «pull to par». This implies that the value will always develop to their nominal value as the maturity nears. Any voltility of spread movement will gradually diminish. The spread risk module is currently too much focused on the widening and tightening of spreads and less focussed on the actual default risk. Insurers use ALM techniques to align the investments with their characteristics of the insurance obligations. For these exposures, as mentioned earlier, the default risk and policyholder behaviour are more importamnt. Only for those exposures whihc are basically aligned with the Own funds or other liabilites a more short term riskiness is assumed. By deviding the exposures in these two objectives the market risk (spread risk) module should be altered. For the first objective (ALM) reference should be sought which actually reflects the business model of insurers, while the second objective (return) could be based on the current approach.	
Q2.8	The use of ratios according to the CRD/CRR legislations, Solvency II legislation or equivalent. This is already allowed by the Solvency II legislation but not as a first option, but as a second option of no rating of an ECAI is available.	
Q2.9		
Q2.10		
Q3.1	No, the recognition of guarantees issued by RGLAs should be widened. For example the article with regard to guarantees for RGLAs is available in CRR (Article 116(4)), but is not available in SII. This leads to differences in guarantees between banks and insurers.	

	An example in the Netherlands is related to the National Mortgage loan Guarantees. The guarantee fund which is fully backed by the Dutch government gives guarantees for mortgage loans for private houses. Because the gaurantee is not fully compliant with Article 215f of the Delegated Regulations, insurance companies have to treat those loanes as not guaranteed, while banks in the same situation may take in account this guarantee. EIOPA refers to Regulation 575/2015. This is a wrong reference because this is the Restrictive Measures concerning Syria. Reference should be made towards 575/2013. Insurers and Banks are competing in the same capital markets when assessing exposures in the form of bonds and loans, although their objectives and their time horizons for investments can differ. When considering government related exposures a similar treatment should be available for financial institutions regardless whether they are subject to CRD/CRR or Solvency II supervision. If a government or related exposure is exempted from capital requirements under the one regime it should also be treated similarly within the other regime. In the CRD IV (575/2013) article 3 (8) a definition is provided for public sector in which also government and regional governments are mentioned. "…to authorities that exercise the same responsibilities as regional governments and local authorities, or a non-commercial undertaking that is owned by or set up and sponsored by central governments, regional governments or local authorities, and that has explicit guarantee arrangements, and may include self-administered bodies governed by law that are under public supervision." The Solvency II legislation should use the same definition, especially the latter part of the definition in order to obtain a level playing field. When assessing the appropriate risk weighing the CRD makes a distinction between 1) government exposures, 2) regional governments, 3) other public sector exposures. This differentiation is not done within Solvency II. A similar categorisation should be done for Solvency II in accordance with the CRD IV. These categories could subsequently reflect the actual risk characteristics of the counterparties and the extent in which these are guaranteed by the government. Similar to the CRD IV Solvency II legislation lists the same regional governments as the CRD IV (as made public by the EBA on their website). However the CRD IV allows any other regional government bond exposures to be assigned a lower risk weighing (see article 115 (5)). This is not done within the Solvency II legislation. There is no reason known why this should not be applied for Solvency II. For Solvency II the risk factors could also be reduced by multiplying with 20%. Article 116 of the CRD IV also uses a distinction in duration of exposures to public institutions. If	

	the exposures are less than three months the risk weighing is reduced to 20%. A similar treatment should be made available for Solvency II. Especially based on the 12 monthstime horizon these exposures will be more sensitive to default risk than the volatility of spreads. Therefore the spread risk module should reflect this. According to article 116 (4) of the CRD IV "In exceptional circumstances, exposures to public-sector entities may be treated as exposures to the central government, regional government or local authority in whose jurisdiction they are established where in the opinion of the competent authorities of this jurisdiction there is no difference in risk between such exposures because of the existence of an appropriate guarantee by the central government, regional government or local authority.". If the competent authorities assumes this the case for the one regime it should also be made available for the other regime. Otherwise it would distort the level playing field in possible investment opportunities including the risks associated with the exposures. Furthermore the CRD IV legislation also provides more categories such as institutions. These are granted a more favourable treatment than normal exposures. EIOPA should apply a same categorisations and treatment when assessing the risk factors under the Standard Formula. Investments by insurers in these type of exposures as mentioned within article 112 (a)-(f) are typically made to ensure a low risk profile of the exposures. However the Solvency II legislation does not have a similar categorisation when determining the capital requirements for spread risk (and concentration risk). <u>Example of dissimilar treatment of NHG as a credit risk mitigant within CRD IV/CRR and Solvency II</u> In The Netherlands the National Mortgage Guarantee scheme (Nationale Hypotheekgarantie, hereinafter 'NHG') is a housing market instrument designed to improve access to the owner-occupied housing market in the Netherlands. It is an instrument deployed by the national government. The NHG scheme is administered by the Homeownership Guarantee Fund (Waarborgfonds Eigen Woningen, hereinafter 'WEW'). WEW is responsible for policy regarding the NHG scheme and its implementation. WEW's goal is to promote homeownership and improvements in housing quality and help homeowners retain their homes. To achieve this, it uses sureties (for mortgages) as an instrument. To ensure that WEW can indeed fulfil its guarantor function, WEW's articles contain several key elements such as the surety fee and the backup system. The WEW in short: • Autonomous, not-for-profit, private organization. • Improves homeowners' access to Dutch housing market	

	• Stands surety for +/- €190 billion in mortgage loans • Guarantor of +/- 1.3 million active guarantees NHG is included in the risk weighting of mortgages on the balance sheet of mortgage lenders. For banks, under the EU Capital Requirements Regulation (CRR) and Capital Requirements Directive (CRD-IV), NHG is considered to be a CRM both in the standardized approach and in banks' internal models. However, the NHG scheme is not considered to be a form of CRM according to the Standard Formula under Solvency II.	
Q3.2	The current Solvency II requirement only allows for the recognition of guarantees if the exposure is fully guaranteed, There is no possibility for a partial guarantee. In our opinion article 215 (f) should be amended that also partial guarantees are possible. In many instances a guarantee can cover either the redemption value, the coupon or other similar payments during the duration of the exposure, allows for an own retention of a small part of the exposure, etc. By not allowing this various guarantees where the risk are divided amongst stakeholders are not eligible a guarantee. The text could be amended to : " (f) the guarantee could cover all types of regular payments the obligor is expected to make in respect of the claim. The cash flows for which the guarantee is used, should be mentioned in the contractual agreement surrounding the guarantee.". Furthermore guarantees should also be allowed to be used as risk mitigation where "collateral" is mentioned. For example in article 176 (5) of Regulation 2015/35 only reference is made towards collateral. There should also be a reference to article 215 enabling the use of guarantees for these exposures. By only allowing collateral the possibilities for risk mitigations are limited unless the list of institutions is elaborated as mentioned in article 180 (2) : "Exposures in the form of bonds and loans that are fully, unconditionally and irrevocably guaranteed by one of the counterparties mentioned in points (a) to (d), where the guarantee meets the requirements set out in Article 215, shall also be assigned a risk factor stress of 0 %.".	
Q3.3	Yes, partial guarantees should be allowed. This requirements does prohibit significant guarantees not to be eligible for Solvency II purposes. The benefits will outweigh any other costs. Normally an insurer would already make this split for risk management purposes. The recognition of a partial guarantee will generally only have an impact on the actual outstanding exposure which will serve as in-out for the calculations of the capital requirements.	

	Example – NHG as a partial guarantee NHG is an extensive surety for mortgages that covers not just the residual debt but also the costs and penalties associated with a forced sale. Solvency II does not allow taking into account the risk mitigating effects of NHG. In support of this it was pointed out to two new stipulations in Solvency II: Firstly, under Solvency II guarantees can only be treated as a form of CRM if this option is specifically stated in Solvency II. This is not the case for mortgages. Secondly, CRM only applies if the guarantee covers all payments in full. The NHG scheme does not satisfy this requirement due to the annuity-based decline in the surety amount, the lender's own risk and the fact that future interest income — and consequently the difference between the market value and the book value — is not covered. This means that lenders have to maintain capital buffers in accordance with the standard formula for mortgages, and consequently do not enjoy any advantages: "Under the Solvency II Regulation (2015/35/EU, the Regulation), guarantees may only be taken into account if they fully cover all types of regular payments the obligor is expected to make in respect of the claim (Article 215, under f, of the Regulation). NHG does not meet this requirement for the following three reasons: 1. The amount which is paid out in case of default is at most the difference between the nominal value and the value of the collateral, which means that NHG does not cover all types of regular payments the obligor is expected to make in respect of the claim. 2. The guaranteed sum decreases on an annuity basis. *3.* Effective from 2014, NHG mortgage loan providers must take into account an excess of 10%." (Source: www.dnb.nl) If a partial guarantee would be allowed, the NHG would be able to meet the stated criteria covered by article 215	
Q3.4	Insurers have to invest in investment guarantees which are competing with that of the banking sector. Examples are loans to SME entities. These loans to the SME are mostly additionally guaranteed by institutions (not necessarily by central governments). Several investment categories will have partial guarantees. Amongst others: (subordinated) loans, mortgage loans, infrastructure loans. The type of investments are typically having a direct impact on the real economy. The ability for insurers to compete for these type of investments provide areal incentive for the real economy. Having a diversified ability to investment will also be a positive incentive for insurers spreading their risk profile. For some Life insurers the exposures having partial guarantees amount to 10% of their total investments value.	

	Example - Dutch mortgage market in 2016 • The outstanding mortgage debt in the Netherlands amounted to € 662 billion. The share of banks in this was 75%, the proportion of insurers was 8%. • The total of new loans amounted to € 33 billion in 2016. Of this, 62% was financed by banks and 9% by insurers. • The share of NHG-mortgages in the mortgage lending by banks was about 21% in 2016, by insurers that share was about 38%. (Source: DNB, 2016)	
Q3.5	The capital requirement for spread risk is the exposure times a risk factor which depends on the CQS and Duration. The guarantee will have an impact on the exposure used as input. The guarantee will lower the total exposure. If possible, debt instrument is split into separate instruments with different cash flows, durations and spread risk classification. The guaranteed part would be treated as exposures to the guarantor. The unguaranteed portion should be treated as the exposure to the borrower.	
Q3.6	The guarantees, if meeting the requirements, should be allowed to reduce the exposure to all types of investments regardless of their category. Thus spread risk (Bonds/Loans, securitisations), concentration risk and counterparty default risk. There should be no artificial limitation. Mortgage loans are (if meeting the requirements) recognised as type 2 exposures (art 189 (3)). Several type of mortgage loans have government guarantees, which are not recognised within the CDR-type 2 module. In the LGD formula only reference is made towards "collateral". The risk mitigation arrangement "collateral" should be elaborated to take the government guarantees into account. Articles 196 (Risk mitigation techniques) and 198 (valuation of mortgage loans) should be adjusted accordingly.	
Q3.7	It is our understanding that exposures to guarantees were already taken by insurance undertakings before the implementation of SII, leading to high capital charges for these companies under the SII regime. Alter the treatment under SII of these exposures to guarantees may indeed lead to an increase in the exposures taken by insurance undertakings. The use of guarantees by institutions /collateral would be a factor which is used in making investment decisions. If guarantees would be allowed in a broader sense this would be a postive	

	incentive for insurers to invest in these type of exposures. The risk profile of the investment portfolio would increase. The investment universe would become broader when taking our proposals into account. This means that it will more likely to find assets that are attractive within the Solvency II framework, at the same time fitting the long term view of insurers, which would indeed in turn likely increase the exposure to such guarantees.	
Q3.8	In the Netherlands the Nationale Hypotheek Garantie (NHG), i.e. the national mortgage guarantee should also be recognized as if it were guaranteed by te central government, similar to the treatment under banking regulation. As mentioned under 3.1 the definitions as used by the CRD IV should be introduced for Solvency II purposes including the subsequent treatment for determining the appropriate capital requirements. In order to have level playing field between banks and insurers competing the same market the exposures should be treated in a similar fashion. A guarantee issued by central government of regional government should have the same value as they are issued by the government in their broadest sense. If treated dissimilar there should be a clear decisive reason and will generally be based on local legislation within a member state e.g. a government which will not back the local or regional government. Generally there are structures in place which ties the regional government with the central government. List of RGLA has been defined according to the principles (Article 85) where legal link between the guarantor/sovereign and the authority, or authority's tax-raising power, etc criteria have been checked . RGLA credit profile is therefore similar to its sovereign but the quality and legal framework of guarantees provided by RGLA towards others entities was not in scope of this check. It is not clear if the guarantees granted by any RGLA defined according to Art.85 can be seen as risk-free equivalent. In many countries RGLA have tax raising powers and a government backstop in case of financial difficulties. A guarantee provide by RGLA can be regarded as ultimately government guaranteed if the government has a backstop procedure in place and has sufficient oversight of the RGLA activities.	
Q3.9	Not that much different, if you look as a proxy at the volatility of the total return of the Barclays EUR government guaranteed index and the Barclays EUR Local Authority index. The correlation is also high between these two indices. An adjustment for the illiquidity of RGLA could be considered.	

Q3.10	Probably not, the financial risk should be treated the same. Basel III and Solvency II regulation are already designed in such a way to fit bank and insurers business models. On RGLA exposure treatment it would be good to have regulation aligned.	
Q3.11	Yes, the same categorisation should be used. The risk profile of the categories mentioned in article 115 are different which would justify a different treatment. It would be a good idea to allow for some form of intermediate treatment. Currently the categorisation is quite digital. In the Netherlands there are loans of hospitals or housing associations which are partially backed by a RGLA. In such cases an intermediate treatment would be convenient. At the moment these kind of investments are not attractive, because they are often unrated and do not benefit from the partial guarantee.	
Q3.12	Insures would probably consider these investments more favourbale in their investment strategy. These exposures will have a lower return profile than other (corporate) exposures. If the treatment is not aligned similar to that of banks there is less incentive to invest in these type of exposures. The insurer would be faced with lower returns while the risk is the same as other non-LTGA exposures. Banks are more inclined by Basel regulation to have shorter term assets on their balance sheet, while insurers need more long term assets to match their liabilities. Long-term partial RGLA (guaranteed) assets are currently challenging to touch for both parties. By aligning the Solvency regulation there will be a better risk/return tradeoff for insurers and long term RGLA guaranteed assets can become more attractive.	
Q4.1	Financial risk mitigating techniques, in the form of longevity index-linked derivatives are increasingly being considered to transfer risk (also to non-insurance companies). Transactions are being done. Models have been developed. Knowledge basis has widened. Reporting solutions have been defined. Examples are: longevtiy swap, embedded options like Cocos, CDO2.	
Q4.2	General The standard products which have been used in the UK and Dutch markets take the form of	

	indemnity swaps (which act much the same as longevity swaps). Indemnity swaps are an arrangement between two counterparties to exchange exchange fixed payments against variable payments linked to the number of survivors in a reference population. So far, deals have mainly involved pension funds and annuity providers seeking to hedge their exposure to longevity risk. This means that the variable payments in longevity swaps are driven by the mortality experience of each hedger (hence the name indemnity-based, or bespoke, longevity swaps). This type of transaction is essentially a form of longevity risk insurance, similar to annuity reinsurance in reinsurance markets. Focusing on longevity index-linked derivatives: * It is an OTC instrument with a pay-off that relates to an objectively verifiable longevity index. * As SII and shareholders increasingly focus on risk, this increases the incentives for risk management in the last few years. Theoretically, there is no reason why a company that is good in selling longevity products should also be the one to keep it on its own books (cf. mortgages). See also Q 4.1. * The materiality has in some organisations never materialised because of (uncertainty around) regulator treatment of : - OF benefits in the Risk Margin (or on the asset side), e.g. related to projected SCR reductions. Yes, the nature of the hedge will change over time. To the extent that the Risk Margin projects on the basis of Best Estimate realised, why would projecting hedge benefits require much more detail ? Or unspecified (and therefore unmanageble) regulatory concerns regarding : - Concentration risk with reinsurance companies … shouldn't this be adressed by regulators ? - regulatory arbitrage … risk measurement is about tail-risks .. if we only hedge tail-risks, isn't that exactly the purpose of regulation? If the idea behind SII is (also) to support risk management across the risk spectrum, would it be useful to discuss a proxy method to combine the two angles (and revise the whole SII framework) ? * - Regarding materiality (210.2, 210.3) Basis risk … to the extent that the SF is regarded as typically sufficient to capture risk, why would hedging this SF risk now create the need for a significant 'appropriateness assessment'? Do we want to take the same approach for all areas in the appropriateness assessment? Can't we agree on a proportionality approach where transfer of the first part of systematic longevity risk has only limited requirements for basis risk ? - Regarding legal form (2.11 vs 2.12). Why is there a difference between 2.11 and 2.12 ? Do we need a legal definition ? For instance, why is need for a formal definition of 'special purpose	

	vehicle' ? Relaxing the requirements for the legal nature of the contract would help. In quantifying Risk Margin benefits, shouldn't it be substance over form ? For instance, why are reinsurance contracts included in a transfer to a reference undertaking, but financial instruments not ? * Regarding the link to risk management (2.12). Why would issuing longevity products need to be treated differently in risk management processes than hedging longevity products ? * Regarding the valuation of financial instruments (2.12.3). Given the illiquid nature of these contracts, valuation methodologies can't be perfect. Valuation issues are comparable to valuation of technical liabilities, and can be addressed in the same way. * What is the effect of new developments in risk-mitigating techniques not taking place at all, because they are not recognised by the regulator ? Companies incur too much risk, are too afraid to sell new products. Innovation is stifled.	
Q5.1		
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Q5.4	Within the Solvency II legislation a distinction is made for Health insurance in Not Similar To Life (NSLT) and Similar To Life (SLT). For NSLT the Non-life system of determining the Underwriting capital requirements is used while for the SLT the Life scenarios are used. NSLT health insurance is always deemed to resemble the characteristics of Non-life insurance. Mostly the contracts are short tail and the risks are not biometrical (mortality table, recovery rates, morbidity, etc.). The capital requirements for Non-Life insurance lines of business including NSLT health insurance (medical expense, income protection and workers compensation) are based on the formula in which the Volumefactor is multiplied by a Standard deviation which is again is multiplied by a projection factor. This is performed per identified Lines of Business. The projection factor and standard deviation for reserve risk and premium risk is pre-defined. *Projection factor* The projection factor is used to project the normal development of the premium- and reserve risk towards obtain a VaR over a twelve months time horizon with a confidence of 99.5%. The formula for Non-Life underwriting risk has not changed since the first Quantitative Impact Studies (QIS). For the QIS-studies EIOPA provided technical specifications which were based on the emerging views of the Solvency II legislation including need for options to be tested. However for Non-life insurance obligation the only controversial topic was the actual calibration of the "alpha" and "beta" (standard deviations for premium- and reserve risk per Line of Business).	

SCR.9.18. The function $\rho(\sigma)$ is set such that, assuming a lognormal distribution of the underlying risk, a risk capital requirement consistent with the VaR 99.5% calibration objective is produced. Roughly, $\rho(\sigma) \approx 3 \cdot \sigma$

In the Technical Specifications (QIS5) the following was defined:
In the spreadsheet used by CEIOPS to calculate all the calculations of the Solvency Capital Requirements this was translated into:

Non-Life premium and reserve risk	917,5
=EXP(2,58*SQRT(LN(F708^2+1)))/SQRT(F708^2+1)-1	

In the Regulation (2015/35) which was adopted in 2015. The projection factor was made equal to 3. This change has not been properly documented why an increase from 2.58 to 3 was justified. This change amounted to an increase in the Non-Life Underwriting Risk capital requirements of 16.3%.
In our opinion the 2.58 is still justified and should still be used in order to calculate the capital requirements for Premium and Reserve Risk (Non-Life underwriting Risk and NSLT underwriting Risk).

Volume factor times Standard deviation-NSLT
The capital requirements for premium and reserve risk has to assumption that the claims can increase infinitive. Based on the premiums or Best estimate value the standard deviation per LoB determined the capital requirement.

For most Lines of Business this is an appropriate assumptions. However for NSLT Health – medical expense this is not an appropriate assumptions.
Typically for medical expense the claim is only paid when health care has been provided to the policyholder. This implies there is a direct relationship between the ability to provide health care and the premium- and reserve risk incurred by the (health) insurer. No health care, no claims. However the Standard Formula does not recognise this principle and assume an infinitive possibility to provide health care in a Member State.
Health insurance can be divided in basic health care (either private, but in most Member states finance by (partial) public means) or supplementary health care. The cover of Supplementary health care is mostly defined in quantity and quality. For example a policyholder is only able to visit 18 times a physiotherapist for a fixed price. This implies that the actual costs can never exceed this pre-defined number and amount. This ceiling-effect is not recognised within the current approach for medical expense.

The basic health care is provided by the medical infrastructure available in a country based on the local legislation enforced in each Member State. The extent in which the medical

	infrastructure and medical cost financing is organised, defines how much the medical costs can actual increase over a twelve month time horizon. This possibility for an increase is actually very limited. Only the not-used capacity of the medical infrastructure or the unstructured part of medical expense (if no pricing mechanism or budget constraints are in place, which in general is very limited in nature) can cause an increase in the health care. Within a twelve month time horizon it is not possible to have fully operational hospital in place or to have new medical care specialists able to provide the health care demand as needed. This implies that the formula used to determine the capital requirements for Premium- and reserve risk will overstate the actual possible risk. In order to accommodate for this "natural" boundary of the medical infrastructure a cap could be placed. This cap could be determined based on the extent in which the medical infrastructure is used or not per Member State. $SCR_{(NSLT,\ medical\ expense,\ pr)} \sim 3 * \delta_{NSLT} * V_{NSLT} * \tilde{N}_{Member\_State}$ Where, $\tilde{N}$ = (1-max (0,use of medical cost $infrastructure_{t-1}$/ full employment medical cost $infrastructure_t$)) The $\tilde{N}$ should be determined by the NSA based on the same methodology throughout Europe based on statistical data as published by the national statistical agencies (or another organisation providing objective and transparent health data).	
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Q9.5		
Q10.1	Even though there are more good models available the L-C model is generally accepted and gives reasonable results in case trend risk will be better captured for longevity risk in the SCR. In the Netherlands insurance companies applying mortality tables based on a comparable model as the L-C model. For each year of birth the life expectency is determined separately, taken largely the longevity risk in account. A generic 20% shock for longevity is too much for the Dutch situation, as longevity is already included in the determinatin of the best estimate. It should be unacceptable that there are still one-dimensional mortality tables in use.	

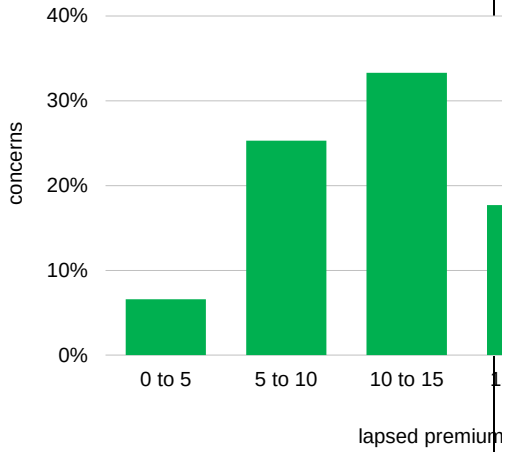
Q10.2	Given any stochastic model, the resulting SCR could serve as an initial starting point. Back testing could provide useful information about the needed level of model risk (that should be added to the initial outcome) in order to absorb 99.5% one-year events.	
Q10.3	Yes. Assumed that future trend of increasing life expectancy is not always sufficiently taken in account. The proposed L-C model has the possibility to introduce a trend factor shock instead of a simple -20% shock. Longevity is not based on a linear shock but will develop over the future and that is exactly what you achieve with a trend shock. Suggested is a trend shock factor wich is decereasing over the time. Not all insurers are able to implement a L-C model. Therefore the current formula should remain for reasons of simplification. The level of the 0.8 factor should be reduced, depending on the used mortality table.	
Q10.4	HMD and EuroStat provide useful information for a multi-year modelling approach. The one-year approaches and calibration back tests require datasets containing formerly used assumptions that are generally not publicly available.	
Q10.5	Longevity risk is not only the result of the uncertainty for the future general population mortality. Longevity risk should also cover the uncertainty that relates to the insurance specific mortality (relative to the general population mortality). In the ideal situation, the risk modelling is not restricted to the (uncertainty related to) the starting level of the experience mortality but should also reflect the consequences in the long run.	
Q10.6	Yes see 10.3	
Q10.7	An approach based on a simple shock like in the expense module of the SF (x% one off shock, and y% extra mortality reduction per projection year) would work well for a SF. The x-parameter should then mainly reflect the uncertainty related to the experience factors, whereas the y-parameter is dominated by the uncertainty in the population rates.	
Q10.8	For longevity risk, a model point approach could be adequate. The model points should then	

	represent a model portfolio that represents for instance, in a condensed data format, pension liabilities per age, gender and pension product type of the specific insurance portfolio. In that case, the model portfolio adequately reflects the longevity dynamics of that total Pension book.	
Q10.9	No.	
Q10.10	As uncertainty accumulates over time, shocks should have a certain trend over time and not be instantaneous. See Q10.7.	
Q11.1		
Q11.2	*Introduction* One of the priorities as identified in the "Key Messages" document is the reduction of the lapse shock for both life and non-life policies. On basis of observations of Dutch insurance companies over a number of the years we conclude that the percentages in the Delegated Regulations are too high for the Dutch market. *Delegated Regulations* Article 118 of the Delegated Regulations for non-life says that the capital requirement for the non-life lapse risk should be determined with a shock of 40%. Article 142 of the Delegated Regulations says that the capital requirement for the lapse risk of life policies shall be equal of the largest of (a) the capital requirement for the risk of a permanent increase in lapse rates; (b) the capital requirement for the risk of a permanent decrease in lapse rates; (c) the capital requirement for mass lapse risk. The capital requirement for the risk of a permanent increase should be determined with a 50% instantaneous increase. The capital requirement for the risk of a permanent decrease should be determined with a 50% decrease of the lapse rates. The capital requirement for mass lapse risk shall be equal to the loss of basic funds when there would be an instantaneous discontinuance of 70% in case of insured pension schemes and 40% in other cases. *Non-life* For non-life we conclude that 40% is too high. Unfortunately we were not able to differentiate between lapses, surrenders an expected expirations. Including all these causes for reducing the	

insured portfolio we calculated that in 99,5% of all cases a percentage of 39% is sufficient. Taking in account that the expected expirations should be excluded, this percentage should be must lower and is expected to be nearer 30% than 40%.
Assumed that the average duration of a car insurance is 5 years, 20% of a motor car portfolio is expiring. Because regular expirations should be deducted from the total of lapses, the overall lapse percentage for the Dutch non-life market should be substantially lower as stated before.

The percentages are determined based on data of 197 observations with multiple lines of business over nine consecutive years.

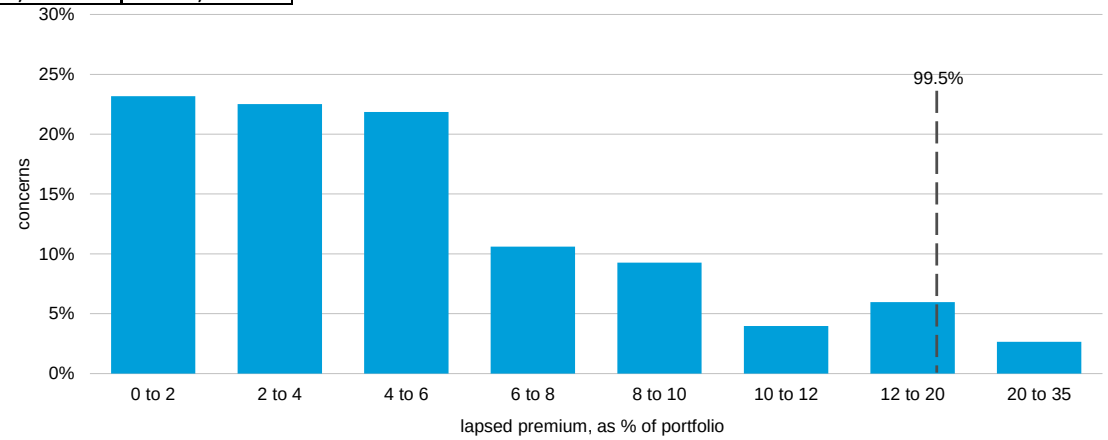
Percentile	Lapse/Surrender/Expirations
99,5%	39%
97,5%	33%
95,0%	30%
90,0%	27%



99.5%

Life
For life we conclude that 18.3% is a more realistic percentage than 40%. This percentage is determined based on data of 151 observations with individual life policies over seven consecutive years. In 99,5% of all situations the lapse rates are 18.3% or lower.

Percentile	Lapse
99,5%	18,3%
97,5%	15,1%
95,0%	13,5%
90,0%	11,7%



Because of the mis-selling of unit linked policies in the past, there was a higher percentage of surrender in the recent years for these specific policies. Should these policies be excluded, than the above mentioned percentages should even be lower. Group life and group pension, including reinsured pension schemes are not included.

Our recommendation therefore concerns only individual life. We did not investigate the lapses of the insurance policies falling within the scope of operations referred to with Article 2(3)(b)(iii) and (iv) of Directive 2009/138/EC which had to be shocked with 70%

Methodology

I. We do not agree that the mass-lapse shock to be applied to the surrender value minus only the best estimate. After all, the risk margin is released at a surrender, which the prescribed shock the real loss overestimate by mass lapse. The mass-lapse shock should therefore be applied to the surrender value minus both the best estimate and the risk margin. Especially at insurers with long-term liabilities, this improvement has a

	substantial effect on the ratio. II. We do not agree that the mass-lapse shock must be calculated policy to policy. This assumes that a policyholder would act entirely economically at surrender. Every individual would surrender if the surrender value is higher than the best estimate, and would not surrender as the surrender value is lower than the best estimate. This is not a correct assumption, because the insured is not aware of the value of the best estimate and because in a situation of mass lapse or surrender other arguments play a more important role, such as the image damage of the insurer the need for quick cash, etc. The mass-lapse shock should therefore be applied to the total portfolio, allowing for mutual compensation. Especially for insurers with long-term liabilities these improvements have also a substantial effect on the ratio. *Conclusion* The percentages for determining the capital requirements for lapse risk for non-life as well for life policies is too high. Based on statistical data we propose a percentage of 18.3% for life, instead of 40%. For non-life we propose to reduce the percentage of 40% to a substantial lower level. This percentage is expected to be max 30%.	
Q11.3		
Q11.4		
Q11.5		
Q11.6		
Q11.7		
Q11.8		
Q11.9		
Q12.1		
Q12.2		
Q12.3		
Q12.4		
Q12.5		
Q12.6		
Q12.7		
Q13.1		

Q13.2		
Q13.3		
Q13.4		
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Q14.1		
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Q14.7		
Q14.8		
Q14.9		
Q14.10		
Q14.11		
Q14.12		
Q15.1		
Q15.2		
Q15.3		
Q15.4		
Q16.1	**Q16.1: What criteria and elements could be used for the proper identification of related undertakings which are used by insurance and reinsurance undertakings as an investment vehicle?** The related undertaking used as investment vehicle are normally under the control of the insurance undertaking and are established with a distinct goals supporting the operations of the insurance undertaking consistent with Ancillary Service Entity but then related to investment activities. The criteria mentioned, for example financial leverage, is not a defining characteristic because the investment related undertaking can be fully financed by parent company.Some additional	

	characteristics could be: - How does the parent (e.g. insurance undertaking) manage the participation. Is this basically on a look through approach? How are the investments considered in ALM studies (just as a participation or on a look through?) -Are activities performed which could have been done by the insurance undertaking? Some criteria could be the full control over a participation. A look-through on participations should be an option (proportionality) for undertakings and it should not be mandatory.	
Q16.2	**Q16.2: Do you agree that the elements identified by EIOPA are relevant? How could such elements be integrated in an appropriate definition?** The financial leverage is not a relevant characteristic (see answer 16.1) ; the nature of liabilities is also not relevant as the related undertakings are related to « investment activities ». The investment mandate could be a feature but should not be a requirement but a possibility. Similarly ALM-considerations of the insurance undertaking (parent) could be a possible feature.	
Q16.3	**Q16.3: What are the costs and benefits that might be associated to extending the application of the look-through approach to investment related undertakings?** Not applying the look through approach generates a lot of issues because intragroup transactions are not eliminated generating differences which are only recognised on the solo balance sheet. The risk profile of the insurance undertaking can differ significantly from the SCR. This could cause the insurance undertaking to prepare an own Economic balance sheet and related SCR for their own purpose and one for supervisory purposes. This will imply the use of more resources.	
Q16.4	**Q16.4: How may the extended application of the look-through approach to investment related undertakings impact the SCR calculation?** In the case of not applying the look through : - The participation will be based on the adjusted equity value. In this adjusted equity value any intragroup transactions are not eliminated. The economic value of any funding will have a constant credit spread in line with article 75 of the Directive 2009/138/EC ; - The intragroup position (funding of the investment realted undertaking) will be on the economic balance sheet and will be subject to the scenarios of the Market Risk. Because the IGT is not eliminated there can be a difference between the economic value of the asset on the balance sheet of the insurance undertaking and the economic value of the funding liability within the related undertaking (constant spread). Depending on the seize of the credit	

	spread and volatility of the spreads in the market this could create or remove own funds on the level of the insurance undertaking. Not applying the look through could also have an impact on the relevant interest rate scenario. Depending on the characteristics of the intragroup asset in relation to the investments embedded within the investment related undertaking the interest sensitivity could change. Form upward to downward or vice versa. This would impact the risk profile presented by the SCR and this would differ from the view of the insurance undertaking. By having a look through approach these effects will not appear. Because the entity is under direct control the information needed for determining the capital requirements are available.	
Q16.5	**Q16.5: Under which conditions do you consider that it would be appropriate to apply/allow the look-through approach to investment related undertakings?** If the insurance undertaking applies a look through view in their management of the combination of the insurance undertaking and their participations.	
Q16.6	**Q16.6: Do you consider the 20% threshold established by Article 84(3) appropriate? burdensome, compared to its added value in terms of accuracy of risk sensitiveness?**	
Q16.7	**Q16.7: Does the threshold allow the application of the simplified approach for investments which are backing unit-linked and index-linked products in an appropriate manner?**	
Q16.8	**Q16.8: Do you have specific proposals to further simplify the look-through approach for investments which are backing unit-linked and index-linked products?**	
Q16.9	**Q16.9: Do you identify specific exposures for which the cost of the application of the look-through approach would be excessively burdensome, compared to its added value in terms of accuracy of risk sensitiveness?**	
Q17.1	**Q17.1: Do you think that the relative shock on interest rates is inappropriate to measure the one-year 99.5% Value at Risk in a low yield environment? Please explain if you think that the current relative approach underestimates the interest rate risk.** A relative risk approach is meaningless in a negative interest-rate environment : • You cannot capture the risk of interest-rates becoming negative. • You cannot capture the risk of interest-rates becoming more negative.	

	By extension, it is meaningless in a very low interest-rate environment, where the possibility of negative interest rates is realistic.	
Q17.2	**Q17.2: Under what conditions and circumstances could the issue be resolved by setting a minimum downward shock? How should this minimum be calibrated?** Setting a minimum downward shock would alleviate the problem, in the same way as a minimum upward shock. You reduce the 'small number' problem. However the question is whether the proposed 100 bp is the correct absolute value. Considering the 100 bp as used in the upward scenario, the minimum 100 bp generates a parallel shift even over de current value of the Ultimate Forward rate. This increases the shift in the risk free interest rate. Until recently, the IMF has indicated maximum negative interest rates in a range of -0,75% - -2% (https://blog-imfdirect.imf.org/2016/04/10/the-broader-view-the-positive-effects-of-negative-nominal-interest-rates/). Considering negative interest rates EIOPA should also reassess whether in the instance of a negative interest rate the correlation matrix with other risks is still appropriate. Is the behaviour in a negative interest rate environment still similar as envisaged at the design of Solvency II?	
Q17.3	**Q17.3: Do you have any comment on the main issues identified? What are in your view the main interest rate risks that insurance undertakings are facing?** The issues identified should not be assessed in isolation. A change in the scenarios for interest rate should also be assessed in conjunction with some other fundamental points with respect of the interest rate scenarios specifically and the capital requirements for market risk is general. The scenarios identified within the Solvency II legislation are defined to resemble the 1-200. It is difficult to assess whether the current interest rate environment and developments are actually in the "tail of the distribution" or not. If a situation of low interest rate is considered for an appropriate treatment, EIOPA should also consider whether the scenarios and approached would produce appropriate outcomes in a high interest rate scenario. The interest rate scenario should also be consistent with the ultimate approach used for the determination of the Ultimate Forward Rate and sensitivity allowed for the UFR. The Smith-Wilson extrapolation procedure used implies extreme interest-rate sensitivity around the LLP. Cardano proposed a smoother extrapolation mechanism that doesn't suffer from these problems (« Dangerous design flaws in the Ultimate Forward Rate: The impact on risk, stakeholders and hedging costs" Theo Kocken, Bart Oldenkamp and Joeri Potters; Working paper,13 July 2012). When the interest rate scenario is reconsidered EIOPA should also assess the appropriateness of having two correlation scenarios currently in use with different diversification effects.	
Q17.4	EIOPA states "Beside these data sources a historical data set of EIOPA risk-free-rate curves	

	ranging from January 1999 until 2016 could be used for the calibration of the shock factors. Either only values up to the last liquid point could be taken into account, or also values in the extrapolated part could be included in the analysis." Notwithstanding our comment to question 17.3, EIOPA should calibrate the scenario based on the data including the most recent one. This should also include the whole discount rate and not only to the Last Liquid Point as derived by the recital (as often mentioned by EIOPA). In the DLT assessment often a liquid point up to 30 years is used. However as EIOPA recently experiences any data anomalies should be removed from the data analysis. We agree with the ** approach, focusing on the input side, for the following reasons : • Interest-rate risks on the input side can be managed directly. External parties are interested in exposure to the input side.	
Q17.5	The parameters used to derive the discount rate should in general be based on economic principles. Any arbitrary interference should be as much as possible be avoided. The tenor points on the discount rate should reflect an active, deep and liquid market. If this does not exist, alternative valuation approaches should be used to derive the discount rate. After the Last Liquid Point an extrapolation technique should be used in such a manner that the (very) long cash flows are less sensitive to day-to-day changes in the discount rate. It is preferable to evaluate the LLP regularly, based on objective criteria. In our „Key Messages" document we suggested already the following points for improvement: *2) Changing the UFR will also require a change in the Interest Rate Risk scenario. We suggest the following change: The upward and downward shock should only be calculated over the liquid part of the discount rate. The change in the Interest Rate shock is also on the agenda of EIOPA. Their view is that the current movements in interest rates and the shocks are not aligned.* *3) The Last Liquid Point (LLP) should be reviewed periodically. It is important that the LLP is set economically which minimises artificial volatility. The LLP has a direct relationship with setting the UFR. The longer the LLP the less relevant will the UFR be, but the impact could be huge. Changes in the LLP should therefore only be considered in a comprehensive review.*	
Q17.6		
Q17.7		
Q17.8		

Q17.9		
Q17.10		
Q17.11		
Q17.12		
Q17.13		
Q17.14		
Q17.15		
Q17.16		
Q18.1	Article 207 of the Delegated acts (DA) does not limit the loss absorbency of deferred tax. However, some supervisors are limiting the amount of deferred tax that can be considered as loss absorbent on the grounds that approaches for the recoverability assessment (DA article 207(2)) differ widely and imply a certain dose of expert judgement (because they are based on companies' own projections of future profits). LAC DT represents in principle the DTA in a post-shock stressed balance sheet. As such the recoverability test of the LAC DT is not different from the recoverability test for the DTA in a Solvency 2 or IFRS balance sheet and the same methodology (IAS 12) should be applied. Specifically for the LAC DT it is important to consider the economic situation after the stress on the balance sheet items and the underlying assumptions. Whilst this introduces specific considerations, the IAS 12 methodology should remain leading. The CFOF/CROF recent paper on the topic proposes principles and guidance regarding the assumptions to make when carrying out the recoverability assessment. We would support such a framework provided that the recognition of the fact that tax legislation vary a lot across countries is maintained. We support the proposed guidance from the CROF. We recommend EIOPA to revisit it's view on tax groupings (including Dutch fiscal unity). We think it is economically realistic to attain value to positions in which an insurance entity has insufficient tax capacity on its own, but can derive additional capacity from taxable losses that can be utilized through group companies and for which the insurance entity is entitled to a benefit in case of utilization. Further we want to recommend as far as a look through approach is being applied in the SCR determination, to allow that the calculation of the LAC DT is based on a consolidated basis assuming the subsidiaries that are considered in the look through/consolidated view belong to the same tax group/fiscal unity. Specific elements are addressed in the responses to the questions below.	

Q18.2	Whilst there should be consistency in the methodology for the recoverability test, specific assumptions on the returns on assets and liabilities are by definition undertaking specific and may vary by jurisdiction, undertaking and/or portfolio. Applied assumptions should be consistent with similar assumptions used by the undertaking for other purposes and should reflect the economic reality and consistently assumed action by undertakings and regulators after a shock.	
Q18.3	See 18.2. In general, and for asset returns, significant uncertainties can be addressed by using sensitivity analysis or other qualitative assessments.	
Q18.4	Economic profits and losses and fiscal profits and losses are based on the same cash flow projections. The main difference is timing. Whilst these timing differences and the impact thereof must be reflected by the undertaking, the extent to which this would require separate projections depends on the specific circumstances.	
Q18.5	New business is an economic reality, also after the shock, and should therefore be reflected. It is important to make distinction between different lines of business and different types of insurance products to reflect the different levels of uncertainty.	
Q18.6	All elements that reflect the economic reality after the shock following the determined underlying scenarios.	
Q18.7	Valuation differences or shock losses are not expressed fiscally, or only after a long term. They should be taken into account in underpinning the deferred taxes. Fiscal compensation terms are therefore less relevant than profit forecasts in the long term. Long project terms are inherent to market values and shock scenarios under Solvency II. For the project term, a distinction should be made according to the nature of the profit source: for profit sources that will certainly occur (such as the decrease in valuation differences), no time horizon applies; for profit sources with an extremely high likelihood (such as [excess] return on available capital and liabilities) a long horizon applies; for more uncertain profit sources, such as new production, a more realistic and cautious, and therefore shorter, time horizon may apply.	

Q18.8	An artificial limitation of the time horizon for all profit sources would be inconsistent with the Solvency II framework.	
Q18.9	Such a limitation would not reflect economic reality, is not consistent with the EU Directives and would introduce unintended increases in SCR levels. We therefore do not consider such an approach as acceptable. This approach, or other simplified approaches, could only be an alternative for those insurers who are not able to perform a full recoverability test or voluntarily opt for such an approach.	
Q18.10	See 18.9. We do not consider that it is appropriate to set the lac dt to the amount of net dtl as mentioned in 18.9. Lac dt is the tax benefit on potential future (shock) losses not recognised in the balancesheet. If so, tax liabilities on not recognised future profits should also be taken into account as it is to be expected they will emerge in the future also. Limitation of lac dt to the net dtl on the economic balance sheet would lead to an uneaqual approach of reality.	
Q18.11	A SII balance after shock can be a relevant instrument to determine the consequences for deferred tax positions in the pre-shock balance of the SCR-shock and to calculate the effect on the taxable profit of it. However any other way to demonstrate recoverability of shock losses can be appropriate without a prescribed calculation of a full SII balance after shock.	
Q18.12	One of the considerations in testing the recoverability of LAC DT is that the undertaking must economically be in a going concern situation after the shock. Compliance with MCR and SCR must be considered. Any impact of measures needed to recover must be reflected in the recoverability test. However, this should take into account the economic situation after shock, the types of shocks and the relevant (interpretation of) the regulator recovery measures after such a shock event. A simplification in this approach could be that the post shock SCR may be assumed equal to the pre-shock SCR.	
Q18.13	See 18.12 In principle the requirement to meet the SCR and MCR in a after stress situation, under the same pré-stress conditions and -requirements, is not according the Eiopa guidelines. That being said, after shock the company should remain in going concern to be able to substantiate a LAC DT. To prove a company is IN going concern after stress it should be allowed to take additional measures, such as recapitalisation and ancillary own funds, into account by using a recovery period which is realistic with	

	the economic market situation after stress instead of using the pré-stress assumptions as basis.	
Q18.14	We do not believe that additional regulation or guidance by EIOPA is needed because the general framework of IAS 12 can be applied (with reference to 18.1). However, we believe that EIOPA should take a stronger role in preventing national supervisors to issue their own additional regulation and guidance that would distort the level playing field.	
Q18.15	We are of the opinion that the approach described in the response to 18.1 already sets such balanced approach.	
Q18.16	Whilst we agree that LAC DT can have a procyclical effect, we believe that this is inherent in the framework of Solvency II in general with a market consistent balance sheet and an SCR. Therefore, this is not an issue specific to LAC DT and should therefore also not be addressed separately.	
Q19.1	Methods and assumptions for the risk margin calculation set out in Articles 37 to 39 of the Delegated Regulation are consider to be appropriate (given market environment). 1. The biggest issue is the simplification of the non-inclusion of the risk margin in determining the SCR which is the basis for the risk margin. In the mass lapse scenarios (but also when determining the SCR forother risks) because of this simplification the effect of the release of the risk margin is excluded. Especially for insurers with long-term liabilities (wholelife term / funeral) this simplification can have a huge effect on the SCR and therefore the risk margin. The SCR is a 99.5% VaR of own funds, which implies that the risk margin should be included. This is not easy because risk margin is determined based on the SCR and thus occurs a circular reference. This could be fixed by including this and to determine the SCR and risk margin for certain risks in a few steps; it is expected that convergence will occur fairly quickly. But even if you only apply one single step there is already improvement. 2. The shocks in the standard are based on a probability of 1 in 200 for an average SII insurer. Applying a probability of 1 in 200 for a long-term life insurance provides a much lower mass lapse shock. It seems that the prescribed mass lapse is based in particular on short-term life insurance. The Netherlands has opted for a more market-wide 20% in accordance with the "consultation amending risk margin for funeral insurers under SII basic". Therefore calls for (only) for long-term insurers be allowed to apply a lower mass lapse shock eg. 20%. 3. Within SII the risk margin has to be determined by 6% of all future discounted insurance	

	risks. At an average European insurer under SII, the risk margin is low relative to the best estimate. Because of the long maturities of insurance liabilities with long-term insurance, however, the risk margin covers a much larger share of the best estimate. For the specific situation of long-term insurance, this method leads to a disproportionate risk margin. Within the consultation for the Dutch "consultation amending risk margin for funeral insurers under SII basic" applies not 6%, but only 4% of the cost of capital. A lower percentage results in lower risk margin. The adjustment of this rate is easy to calculate, and provides a counterbalance to high SCR and that should be considered in the risk margin (see my aforementioned points 1 and 2). Therefore calls for (only) for long-term insurers be allowed to apply a lower rate of 6%. Article 77(3) of the SII Directive states that the "*risk margin shall be such as to ensure that the value of the technical provisions is equivalent to the amount that insurance and reinsurance undertakings would be expected to require in order to take over and meet the insurance and reinsurance obligations".* Level 2 delegated regulation introduces a specific formula in Article 37 to meet the above requirement. This formula is designed to reflect a so-called 'capitalisation scenario[1]'. Under this assumed scenario the reference undertaking annually raises external capital in the amount of $SCR_{t,}$ for one year at a time. In the current low interest rate environment for portfolios of liabilities with high duration the outcome of such formula-based calculation can exceed maximum solvency capital requirement (SCR) that the reference undertaking faces throughout the run-off period. Risk margin capped at maximum SCR for non-hedgeable risks would also satisfy the Directive requirements, as it would allow the reference undertaking to have sufficient funds in place to cover the SCR related to obligations without external capital raising. It is not clear whether the possibility of excess of risk margin over maximum SCR was intentional or overlooked at the moment the formula was proposed. We suggest to consider the following modification to the risk margin calculation as set in Article 38 of the Delegated Regulation. Current: $$\mathrm{RM} = CoC \quad * \sum_{t \geq 0} \frac{SCR \quad (t)}{(1 + r(t+1))^{t+1}}$$ Modified:	

[1] See Annex E to the Technical Specification for Preparatory Phase
https://eiopa.europa.eu/Publications/Standards/C_-_Annexes_to_Technical_Specification_for_the_Preparatory_Phase__Part_I_.pdf

	$\mathrm{RM} = MIN(CoC \quad * \sum_{t \geq 0} \frac{SCR_i(t)}{\left(1 + r(t+1)\right)^{t+1}} \; ; MAX_t \left\{ \frac{SCR_t(t)}{\left(1 + r(t)\right)^{t}} \right\})$ See Annex E to the Technical Specification for Preparatory Phase https://eiopa.europa.eu/Publications/Standards/C_-_Annexes_to_Technical_Specification_for_the_Preparatory_Phase__Part_I_.pdf	
Q19.2	Since the start of the Solvency II project and QISs this percentage is set at 6%. However, for Solvency II " Basic" a lower percentage (4%) is used. This inconsistency should be resolved or be further substantiated. The Cost-of-Capital rate should reflect current market conditions. However the application of a VA should be allowed (in both discounting and SCR calculation) as well which dampens the procyclical effect. Note: a reflection of current condition also may opt for a required capital for spread risk. Having a cost-of-capital that reflects current market conditions will have a pro-cyclical effect on the risk margin and the own funds. It is noteworthy that using a fixed CoC rate based on long-term average, risk margin increases when interest rates go down and decreases when interest rates go up. If CoC charge was moving in line with interest rates the risk margin would be less volatile.	
Q19.3	Risk margin showed material sensitivity to changes in the interest rate curve. The impact of the interest rate curve decrease on risk margin is twofold: first, TPs on the SII BS increase leading to higher non-market risk SCRs; second, PV of future projected SCRs increases due to discounting.	
Q19.4	- In General, the SCR does not properly reflect the real risk exposure by excluding the risk margin in the calculation of the SCR. - For example, the interest exposure on the risk margin is currently not included in the interest mismatch risk. - The lapse scenario is to identify the profits and cost coverage which will be foregone in the most negative discontinuance scenario. The release of the best estimate would also cause to release any risk margin. Currently is not allowed to take this into account in the calculation of the SCR. It should be allowed to mitigate the negative impact of the mass lapse scenario by releasing also the risk margin as part of the SCR, and not only	

	the best estimate. - The circular reference for non-hedgeable underwriting risks might be resolved by the application of an iteration process. - Calculation of the group Risk Margin. A situation exist in which on the group a risk margin is recognised while there is no insurance obligation. - Article 37 prescribes a projection on yearly basis. The SCR (and thus also the risk margin) can significantly move within a year. A projection on monthly basis will therefore better reflect the real cost of capital. Article 38(h) of the Delegated Regulation prescribes the following assumption for the risk margin calculation: "*the assets are selected in such a way that they minimise the Solvency Capital Requirement for market risk that the reference undertaking is exposed to*". Level 3 guidelines[2] elaborate further and specify that minimizing the SCR for market risks implies that for "*the purposes of calculating the risk margin in accordance with Article 38 of the Delegated Regulation, insurance and reinsurance undertakings that apply the matching adjustment, the volatility adjustment, the transitional measure on the risk-free interest rates or the transitional measure on technical provisions should assume that the reference undertaking does not apply any of these measures*". The following should be noted: a) The prescribed approach introduces an inconsistency between the calculation of best estimate (with VolA) and risk margin (without VolA) b) The prescribed approach also introduces an inconsistency between the assumed investment portfolio of the reference undertaking and the VolA reference portfolio, whereas according to the Directive Article 77d(2) the "*reference portfolio … shall be representative for the assets … which insurance and reinsurance undertakings are invested in to cover the best estimate for insurance and reinsurance obligations…*" Several insurers have previously approached EIOPA with a request to consider long-term guarantee measures, such as the volatility adjustment, in the risk margin calculation. Their proposals were rejected. The main reason for excluding the volatility adjustment from the risk margin calculation is the potential spread risk which might arise if the reference undertaking was invested in the reference portfolio[3]. In addition, it should be considered if the diversification benefit should be included in the risk	

[2] https://eiopa.europa.eu/GuidelinesSII/EIOPA_EN_LTG_GLs.pdf

[3] Please refer to the following report for more details:
https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-15-111_Final%20report_GL_Long_Term_Guarantee.pdf

	margin calculation, in the same way it is included in SCR. https://eiopa.europa.eu/GuidelinesSII/EIOPA_EN_LTG_GLs.pdf	
Q20.1	Harmonization is not the main goal, to have a risk based framework is the aim. It could be dangerous to align banking and insurance regulation, because most restrictive element of both regulations could be applied, resulting in requirements becoming tougher. The relevant prudential regimes CRD IV/CRR and Solvency II as highlighted by EIOPA in the discussion paper do have fundamental differences which should be considered comparing the classification and treatment of Capital instruments. For example the differences in valuation will generate different perspectives and importance of capital components (reconciliation reserves, treatment of deferred taxes, etc.). However financial institutions subject to the prudential regimes are both competing on the capital market when issuing capital instruments. In this capacity, any difference in characteristics should be avoided. Differences in required features for similar type of capital instruments will generate additional costs for the financial institution subject to the more stringent features. EIOPA has listed several were differences exist. With respect to tier 3 within the Solvency II regime the current restriction of 15% of the SCR is arbitrarily set and generates extensively pro-cyclical effects. Within tier 3 net DTA is one of the allowed components (regulation 2015/35, article 76 (a)(iii)). However the question arises why this netDTA is to be presented as part of tier 3. The netDTA is built by the netDTA recognised on the statutory balance sheet and the valuation differences between the statutory balance sheet and the valuation according to article 75 of Directive 2009/138/EC. The former is also subject to a recoverability analysis and review by the auditors. The economic balance sheet also presents the situation of the insurance undertaking in a going concern and subject to an additional recovery analysis. Within tier 3 the netDTA is one of the important components (naturally based on the fiscal legislation within a Member State). For Life insurers the netDAT is very sensitive to movements in de risk free interest rate. For those countries where a technical discount rate is higher than the current risk free rate an high value of DTA is recognised. The bigger the difference the higher the DTA. This could result in having a netDTA higher than the 15% threshold. Based on the 2016 year-end one of our members did have 17,9% of excess of assets over liabilities not recognised as Eligible Own Funds. If that member would be required to de-risk, the SCR would become smaller, which would also decrease the level of allowed tier 3. In order to reduce the pro-cyclical effect the tier 3 should not be based on the 15% (based on article 82 (1)(b) of regulation 2015/35)) but on the 33% (article 98 (1)(b) of Directive 2009/138/EC).	

Q20.2	The following differences between CRD IV/CRR and Solvency II legislation is in our opinion not justified following the differences in business models. The differences will cause higher cost for insurers willing to issue the same instruments as financial institutions subject to CRD IV/CRR. <u>Tier 1</u> The first call date Early redemption based on tax or regulatory events <u>Tier 2</u> Maturity First call date Early redemption based on tax or regulatory events	
Q20.3	In our opinion the requirements as mentioned within the CRD IV/CRR with respect to the differences mentioned under 20.2 should be used. This would align the features for financial institutions irrespectively of the prudential regime and would create a level playing field when issuing capital instruments. This change would not impede the quality of capital.	
Q20.4		
Q20.5	Not yet.	
Q20.6		
Q20.7		
Q20.8	The difference in treatment is not justified by the business model. Regulatory or tax events can have a significant impact on the capital resources of an insurance undertaking. The insurance undertaking should have the ability to change the instrument affected by the event if needed. Naturally the insurance undertaking should be able to justify the compliance with all the capital requirements going forward. A financial institution cannot predict the occurrence of a regulatory or tax event when issuing a capital instrument with long duration. By not having the flexibility to redeem earlier when such an event occurs the insurance undertaking is required to hold more capital and incur higher costs than necessary.	
Q20.9	See comment Q20.8. The rules regarding the possibility for earlier redemption in the event of regulatory or tax events as described in the CRD IV/CRR should be followed. The requirement	

	within capital management to have an adequate capital planning together with requirements as presented within the CRD IV/CRR ensure an appropriate quality of capital after such an early redemption has taken place.	
Q21.1	No. Instruments will be replaced after transitional period in any way.	
Q21.2	Generally speaking this is true for certain members of the Dutch Insurance Association.	
Q21.3	Generally speaking it will provide members of the Dutch Insurance Association with increased capacity to increase OF, because it implies relatively higher capacity in Tier 1 (elimination of possible overflow restricted tier 1 to Tier 2), and hence also more capacity in sum of Tier1 and Tier3.	
Q21.4	The restricted tier 1 market is not on a developed level currently. Further strengthening of tier 1 requirements might impair the marketability of the instruments and is therefore not warranted.	
Q21.5	No strengthening of Tier 1 is desired in any way.	
Q21.6	See answer to question 21.4. This might also imply that costs would exceed return on equity.	
Q21.7	a. For current features there is not a market on a developed level. So for these changes in features we expect it to be worse. b. We assess that lengthening of the non-call period would be more palatable to the investor base than increasing the SCR trigger.	