|  |  | **Comments Template on**  **Consultation Paper on EIOPA’s Opinion on the 2020 review of Solvency II** | | **Deadline 15 January 2020  23:59 CET** |
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| Name of Company: |  | **AMICE** | |  |
| Disclosure of comments: |  | Please indicate if your comments should be treated as confidential: | | 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 to CP-19-004@eiopa.europa.eu, in MSExcel Format, (our IT tool does not allow processing of any other formats).Our IT tool does not allow processing of any other formats.**  **The numbering of the reference refers to the sections** 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. | |  |
| **Reference** | **Paragraph or other detailed reference** | **Comment** | | |
|  | General Comments | **2020 Solvency II Review**  The Solvency II regime is generally a success. The Review 2020 should, rightly said by EIOPA, not result in a revolution but in an evolution by adjusting some elements to reduce pro-cyclicality and rebalance the capital requirements for several investment classes to ensure that insurers continue playing their long-term role in the European economy. **In a nutshell some refinements are still needed to the long-term measures and long-term equity risk for them to achieve a proper reflection of the net risk profile associated with long-term business model. In order to achieve this, a stronger focus on and reflection of going-concern and management actions needs to be achieved.**  We have reservations EIOPA’s draft proposals for the Solvency II 2020 review. EIOPA proposes a significant overhaul of the framework with a very large number of smaller and bigger changes. It is more than 120 proposals for changes that would result overall in significant increases in capital requirements, operational burden for insurers and new powers for supervisors, and we believe it will result in an overall increased burden of supervisory reporting and disclosure.  As a set of proposals viewed altogether, we are very skeptical as to the added benefits against the costs that would be introduced including the negative impact on the Solvency II ratios and the attractiveness of the insurance industry for investors.  We also think that the costs to policyholders, a question particularly of relevance to the mutual sector due to the increased costs of supervision, would increase multifold from the current proposals. These additional costs will in the end have negative consequences for the current policyholders. The calibration of the Solvency II regime as laid down in the Directive 2009/138/EC and Regulation 2015/35 is based on a delicate balance between a high protection level of the current policyholders and the affordability of insurance for consumers. The impact of the current proposals is very much biased towards an ultra-protection of the current policyholders at any cost. Here again, striking this balance is best achieved (if not only achieved) where **a stronger focus on and reflection of going concern and management actions is attained.**  In its impact assessment, EIOPA assesses the impact of the proposals towards insurers, supervisory authorities and policyholders. However, EIOPA should also assess the affordability of insurance and the costs for insurers, the impact that the proposals would have on the range of insurance products being offered, the possibilities to afford guaranteed interest rates and the offering of insurance products where most of the investment risk is passed on to the policyholder.  **Level playing field is not equal to “one size fits all”**  AMICE would like to stress that the Solvency II legislation is based on the notion of a level playing field across Europe i.e. all policyholders in Europe should have the same level of protection and all insurers will be subject to the same supervision. However, ensuring the same level playing field does not mean a “one size fits all” approach. The insurance business is not homogeneous across Europe, the Solvency II legislation should therefore be flexible enough to cope with a diverse landscape while maintaining the key elements as defined in the Directive 2009/138/EC. Principles and not rules should be the distinctive feature of the Solvency II framework. In this proposed EIOPA´s Opinion on the Solvency II Review 2020, EIOPA is asking for more rules and clarifications of different approaches and definitions. In our view this is contrary to the objective and nature of insurance across Europe.  **Supervisory convergence issues should not be solved by amending the existing laws and regulations**  The Solvency II legislation is based on several layers. The Directive sets out the principles and key features of the regime, the Regulation provides details as to how the Solvency II principles are to be implemented and the supervisory guidelines ensure a level playing field across Europe. In our opinion, EIOPA is proposing in too many places to transpose elements of the Guidelines into the Solvency Directive or Delegated Acts. Supervisory convergence should instead be achieved through the development of guidelines, peer reviews, supervisory statements, thematic reviews, the application of the EIOPA´s Supervisory Handbook etc. and not by amending the existing Solvency II legislation. Flexibility should exist to cope with the differences of the underlying legislation across the European Union.  **How do the proposals really work out for the different segments of insurers?**  In Europe, insurance products are sold via a range of insurers i.e. insurers being part of international groups, mutual entities and cooperatives, small and medium entities. Most insurers have unique characteristics which are based on their history. This heterogeneity in the European insurance market is positive as it ensures competitiveness, innovation and a wider choice for policyholders. However, the Solvency II legislation has been developed and calibrated on the basis on an average European insurer. The proportionality principle should ensure that the Solvency II regime is also appropriate for small and medium sized undertakings.  In the recently launched impact assessment (i.e., “*Impact assessment of individual policy options per topic”*) EIOPA does not differentiate across the different types of insurers, therefore it is not certain how the various proposals would work out for the different segments of insurers (large vs small and medium sized undertakings).  **The review 2020 should not lead to a net overall increase in required capital levels on the level of the individual Member State**  EIOPA´s proposed options for amending the Solvency II framework are presented in isolation. The comments listed below follow the same reasoning, however all the proposals (or parts of them) will have an interaction with each other. This could result in duplications, additional prudence and administrative burden for undertakings. This should be explicitly avoided.  Many of the EIOPA´s proposals would have a negative impact on the insurer´s own funds or solvency capital requirements. We believe that there is no need to increase the capital requirements especially in the current low interest rate environment which is having already an impact in many elements of the economic balance sheet which in turn increases the capital requirements. Also, the annual reduction in the ultimate forward rate increases the capital requirements as insurers are maintaining their ambition regarding its solvency position (note that at the start of Solvency II the UFR was 4.2% whereas the calculated UFR for the euro in 2019 is 3.9%).  The calibration of Pillar 1 of Solvency II was done in a different economic environment when interest rates were above 4% and no distortion in the financial markets was observed. The Omnibus II Directive contained a package of measures to deal with the issues associated with the financial and euro debt crisis, but the essence of the Solvency II calibration was neither changed nor revised. The main calibration of Solvency II was conducted prior to 2008, an economic period in time which could be seen as “somewhere in the middle of the distribution”. Methods and calibration had worked reasonably well during that period. However, the current low interest rate environment is a new territory that should not be excessively amplified to avoid overstatement of short-medium term situations to the entire set of long-term projections that will only resolve over time. The question to be answered in this consultation paper is whether the calibration of Solvency II is appropriate in this circumstance.  AMICE wants also to reiterate that at the start of Solvency II it was envisaged that the insurers´ minimum capital requirement (i.e. MCR) would be a hard target that it should be fulfilled at all times; A breach of the MCR would indicate that the interests of policyholders are in danger and allow the intervention by the supervisory authorities. The SCR was a soft target that had to be met but an insignificant breach of the SCR due to market volatility was accepted without the need of producing any recovery and resolution plan. The SCR should not become a new MCR. | |  |
|  | Executive Summary General Messages | **2.2 Extrapolation**  The current proposals of EIOPA (expect Option 1) have in common that the implementation will have a profound impact on the Solvency ratio and/or the manner in which the solvency position of the insurer is assessed by supervisors and the public. Based on the current proposals, we support Option 1. From any other options, it is key that the effective LLP does not increase. The alternative approach in its current form is not a viable option but we would urge EIOPA to engage in dialogue with the industry and other stakeholders with respect to the methodology and setting of parameters. The current extrapolation techniques used in Sweden (i.e. the so called “Cardano method”) should be used as a reference. We would stress that the current in force criteria (i.e. Residual and matching criteria) should remain and the additional Pillar 2 and Pillar 3 requirements put forward by EIOPA should be removed.  **2.4 Volatility Adjustment**  We support changes to the VA that shall result in an increase of the VA that would allow to better account for the risk premium earned by undertakings and a better allowance for their risk profiles. Moreover, we would like to promote a better effectiveness in the mitigation of undue volatility to own funds and the impact of exaggeration of spreads. Therefore, AMICE has already submitted a detailed proposal for consideration (see Annex 1). AMICE identifies issues that bring the non-life insurers perspective in the debate when assessing if the VA fulfils its objectives of protection of own funds and mitigation of artificial volatility. The issues are threefold:  First, there is no compensation for assets backing own funds by nature of construction of the prudential balance sheet (no discounting of own funds and VA defined as an adjustment to the curve used to discount the best estimate cashflows).  Second, an unfavourable duration mismatch due to lack of going concern approach (contract boundaries truncate the BE duration which fails to reflect the going concern horizon to which asset durations are linked).  Third, the too low application ratio (65%) is not justified when undertakings are able to demonstrate their capacity to hold bonds to maturity if necessary.  AMICE also points at the national trigger as it is currently designed and which proves to be inefficient and to create cliff-edge effects. This needs to be solved.  AMICE insists that the refinements should avoid introducing more complexity and we believe the above refinements could be solved with simple remediations such as the all-in increase at entity level of the application ratio up to 100% or above where necessary to compensate several undershootings.  **2.5 Dynamic Volatility Adjustment:**  The use of the DVA is consistent with the application of Article 105 of the Directive 2009/138/EC. This article applies a total balance sheet approach. If spreads change according to the designed 1 in 200 scenarios as stated in the Delegated Regulation 2015/35, the whole of the balance sheet is to be recalculated including the VA used to value the best estimate. We stress that the use of the DVA should also be extended to the users of the standard formula.  This approach is already implemented by many internal model firms who model market risk and could be easily implemented for standard formula users by EIOPA providing the VA adjustments that standard formula companies should use under the SCR spread shock scenario. This will ensure that the capital requirements for corporate bond exposures for all insurers are more reflective of the true economic risks. We would remark that the introduction of the dynamic VA in the Standard Formula would not and should not impact the 0% risk weighting for Member State sovereign debt.  The calibration of the DVA should be inspired by the methodology underlying the VA, and here also, an all-in adjustment to the application ratio could factor all the features and capacity to hold the bonds to maturity after the 1in 200 shock.  **2.6 Transitional Measures:**  We do not believe that the analysis conducted by EIOPA justifies an amendment to the transitional measures’ provisions.  **2.7 Risk Management provisions on LTG measures & 2.8 Disclosure on LGT Measures:**  Regarding the LTG proposals we oppose EIOPA’s proposals to give powers to NSAs to limit capital distributions based on measures that are not consistent with the Solvency Capital Requirements that the European Parliament has set with the Directive. An undertaking holding capital at or above the requirements should in general be considered safe and sound. It should be able to operate without restrictions.  The LTGA measures (Extrapolation, MA and VA) should become a regular part of the Solvency calculations. There is no need for a public disclosure of fictional ratios without those measures.  **2.9 Long-term and strategic investments:**  One of the main objectives of the European’s Capital Market Union aspects is to unlock more investments and to mobilise capital to be channelled into funding the European economy.  Here again, EIOPA’s advice should better account for the going concern perspective of insurance undertakings and their ability to avoid forced sales during adverse market situations and the realization of unexpected losses which stand for a key management action featuring a long-term perspective investment management. The measure of risk should remain the 1-year horizon value at risk but account for the possibility to smooth market fluctuations over longer term because of the management actions in place.  **Likewise, the advice should account for the operational difficulty to implement the criteria set in Article 171a. The application of the criteria should avoid undue operational complexity deterring, de facto, the application of the criteria for long-term investors. The application should remain feasible at a reasonable cost even for those undertakings using pooled assets backing pooled liabilities.**  We would like to refer to a note that AMICE already submitted on the criteria of Article 171a (see Annex 2).  Furthermore, the Long-Term Equity Investment (i.e. LTEI) and the DBER approaches are very different in terms of the criteria and its application, further assessment on the benefits and costs are needed before proposing a phase out of this measure. Indeed, EIOPA’s proposal will create more complexity and unnecessary burden to undertakings with the approved use of the DBER.  **3. Technical provisions**  **3.1 Best Estimate - Contract Boundaries**  Insurance products, product features and policyholder behavior, market expectations, historical practice and fiscal and other legislation across Europe are varied and induce strong differences in the various national markets and practices. Therefore, the concept of the contract boundary and other features of the best estimate should be principle based and not rules based.  Additional guidelines are really only needed if there is a recognised issue existing in the majority of the Member States and which, if not resolved, would seriously endanger the level playing field and movement of goods, products, capital and persons across the European Union.  The current approach for the calculation of the EPIFPs should be unchanged notably because it goes against the economics of the contract and the global concept of economic valuation. We oppose any change to take into account profitability considerations.  **3.2 Risk margin**  We disagree with EIOPA’s current proposal not to make changes to the risk margin calculation. The key proposals from the industry for amendments to the risk margin are the reduction in the cost-of-capital from 6%, and allowing it to vary with interest rates, and the allowance for the non-independence of risks over a lifetime, e.g. by applying an adjustment to projected SCRs, the allowance for the MA or VA when projecting future SCRs; the allowance for diversification between life and non-life business within the same entity and between different entities in the same group  The current design of the Risk Margin is interest rate risk sensitive. In our opinion the CoC-factor should be a function of the risk-free interest rate in such a manner that a more anti-cyclical outcome is obtained.  **4. Own Funds**  We agree with the proposal of EIOPA to maintain the current tiering structure. However, we question whether the net deferred tax assets should be considered Tier 3 as the economic balance sheet and the SCR are calculated on a going concern basis. Tax effects resulting of temporary valuation differences which recycle should be treated as part of Tier 1 and not Tier 3 capital. This would reduce the procyclicality of the Solvency II framework.  **5.1 Interest rate risk**  We agree on EIOPA´s finding that the current way the interest rate down risk is calculated is faulty and needs improvements. Anyway, in EIOPA´s new proposal there is a lack of evidence backing the model and we believe the parameters and the model over estimates the interest rate down risk. As the impact for insurers of the EIOPA´s proposal would be enormous, we find that such a change would require robust evidence which is currently not available. Therefore, we ask EIOPA to consider **another framework for** computing the **interest rate risk** sub-module which uses also qualitative risk assessment for low interest rates as no data exists. Further details can be found in section 5.1. The interest rate shocks beyond the last liquid point (LLP) should be a function of the earliest maturity points, consistent with the method applied by EIOPA to determine the risk-free rate (RFR). The impact of the stress on the extrapolated/illiquid part of the interest rate term structure should be considered differently from the liquid part of the curve, where the impact should be derived using the extrapolation methodology (first stress of market data, then extrapolation based on the results). This includes the method applied for assessing the level of UFR, as explained in our detailed comments.  AMICE is supportive of an approach that would blend quantitative and qualitative elements depending on the level of unknown territory involved in the markets as at the computation date. The calibration of the interest rate downward shock should strike the best balance between up to date financial market information and the way and certainty levels with which these new values will in fact impact cash flows that are quite remote in the future.  **5.2 Spread risk**  We support the extension of the DVA to the standard formula (Option 4) to resolve the incorrect treatment of corporate bonds within Solvency II  **5.3 Property risk**  It is not consistent that the property shock is calibrated on the date of a country which has significantly greater volatility than other European Union countries and will no longer be among the members of the European Union and so would be no longer subject to the Solvency II Directive. The differences in volatility between different types of real estate assets are less important than those observed between different European countries.  It is therefore appropriate to recalculate this shock using a weighted average that includes data from a wide range of Union European members. AMICE believes in the necessity to reduce the property shock and therefore asks to take into account new sets of national data and also the outputs of several report studies that point at the overstatement of the current global calibration. A European global average is likely to robustly support a reduction in the standard calibration by at least 10 points of percentage.  **5.4 Correlation matrices**  Contrary to EIOPA´s Advice we see a case to review the market risk correlations. The two-sided correlation with interest rate risk for the market risks equity, property and spread risk which depends on the individual interest rate risk exposure results in cliff-effects and should be removed. Where quantitative data is not available, the existing correlation parameters should be challenged in a qualitative manner.  **5.6 Calibration of underwriting risk**  The mass lapse scenario appears to be strongly over calibrated. It should be recalibrated for all underwriting risks. In some markets and based on experience the mass lapse scenario should be set at 20% or below. It should be allowed to mitigate the negative impact of the scenario by releasing the related risk margin.  **5.8 Risk Mitigation techniques**  The standard formula should be kept as simple as possible. In order to adapt to the changing environment in the reinsurance cover market, Solvency 2 regulations should introduce NP factors for reserve risk; these would be equal to 100% by default in the Standard Formula and could be replaced by estimated factors using USPs to better take into account the insurer's risk profile.  **7. Reporting and Disclosure**  The direction taken on reporting and public disclosure seems to go against the advice actually sought by the European Commission on this matter; there was a clear intention to improve the application of the proportionality principle and to reduce the overall burden. While there are some positive elements taken as a whole, some of the recommendations will increase rather than decrease the overall burden. For example, EIOPA´s proposals to streamline the SFCR and to remove certain elements that are duplicated in the SFCR and RSR are insufficient our view. On the frequency of the RSR full report, we believe that a default frequency of the RSR should be harmonised at 3 years. The single SFCR report should not be split into separate reports with different deadlines as the purpose of having one single document will not be achieved. Finally, we have strong concerns regarding EIOPA´s proposal to request an external audit of the Group SFCR. The Solvency II Directive should not require any form of external scrutiny or audit of the Solvency II information.  **8. Proportionality**  The Directive must make clear that **NSAs have a duty** to always consider where they should allow companies to deviate from any specific requirements due to proportionality considerations, either by using approximations, simplified approaches or by not applying a requirement where appropriate.  **A "toolbox" providing a non-exhaustive list of simplifications**, alternative calculation methods and/or exemptions from certain reporting templates that can be automatically applied by companies when some predefined and risk-based criteria are met. EIOPA should publish an **annual report on proportionality** including proposals on how to improve its effectiveness and consistency.  **9. Group Supervision**  We believe that the Solvency II legislation should not be amended to consider isolated or individual cases taking place in a single Member State. While there may be a need to improve convergence of supervisory practices, this should not be achieved by changes to the legislation, but more appropriately through the supervisory handbook, workshops, colleges of supervisors, etc. These tools also foster dialogue between NSAs, and between EIOPA and NSAs, and allow to understand why and how in some cases divergent practices are justified by the specificities of particular groups.  On group issues the role of the group supervisor should be enhanced rather than extending EIOPA´s direct role. The mediation role of EIOPA should be reinforced only in those cases where NSAs do not ensure the level playing field or go clearly beyond the Solvency II framework.  There is **no need for a notional MCR** for MFHC and IHC entities. There is **no need for additional power of supervisors to be able to restructure a group**: we believe the proposed additional powers for NSAs to restructure a group, or to choose which company would be designated as the responsible for horizontal groups are overly intrusive and too far-reaching compared to the (theoretical) benefits.  Other group supervision proposals we think become overly complicated are the consideration of EPIFPs as unavailable by default at group level, or the broadening of the scope of the minimum consolidated group SCR to insurance holding companies and mixed financial holding companies, or the ideas to unnecessarily restrict the use of Method 2. On the latter point, we disagree and consider method 2 or a combination of methods still to be an appropriate alternative for some groups, e.g. for mutuals with limitations on own funds’ availability.  **11. Macroprudential policy**  AMICE would like to reiterate that systemic risk is a concept that little applies to the insurance sector that is all based on mutualisation and diversification approaches most notably in the non-life sector. Insurance is very different from banks and does not participate in the monetary transmission chain nor does it work under short term deposits and debt to lend long and hence be subject to strong liquidity issues. The interconnectedness between insurers is none existent in comparison to banks.  In light of this we think that the micro prudential framework is well suited to warrant a robust insurance sector as long as insurers cover their capital requirements and monitor their risks according to the PPP and with the powerful governance tools of pillar 2 and notably the ORSA.  . | |  |
| **Detailed comments** | | | | |
| **2.2. Extrapolation of risk-free interest rates** | | | | |
| 2 | 24 | **2.2. Identification of the issue**  The topic of LLP and Extrapolation should not be considered in isolation. EIOPA should assess the consequences of the different options in conjunction with the other topics which are part of the 2020 Solvency II review. The options chosen should be applied consistently (i.e. the VA & DVA and Risk Margin). Furthermore, the Solvency II review 2020 should not lead to an increase in the insurer´s levels of capitalisation. Therefore, any negative impact of the change in the LLP and/or extrapolation should be compensated elsewhere. This should be assessed not only at European level, but also on a Member State level and distinguishing by insurers ‘size. | |  |
| 2 | 24 - 29 | See our comments above. | |  |
| 2 | 28 | In the analysis carried out in the previous paragraphs, EIOPA does not assess the matching and residual criterion in conjunction. The two criteria together ensure that insurers are able to use real bonds/loans to match the cash flows of the liabilities and that they do not have to revert back to synthetic instruments like derivatives in order to avoid too great volatility on the economic balance sheet. If the two criteria are not seen in conjunction with each other, i.e. by only assessing the swap market as relevant reference, (re-)insurers would have to buy derivatives or change their investment mix. Buying derivatives for hedging will increase the interconnectedness with banks, it will have an impact on the liquidity risk and the systemic riskiness of the whole regime. Using the swaps which are centrally cleared will also increase the importance of the CCP and probably will induce a "too big to fail" risk. These developments are detrimental to the financial stability of the insurance sector. | |  |
| 2 | 30 | **2.2.4.1 Issue I – Underestimation of technical provisions**  It should be noted that there is a reason for not using quotes after the LLP; If they are included in any measure, it should be assessed whether they meet the criteria for an “at arm's length” transaction. Otherwise, onerous transactions could influence the value of the technical provisions. It could be assumed that the risk of underestimation is included in the interest rate shock.  Whether longer points are liquid or not should not only be based on the number of transactions but it should also be considered from the counterparties providing the liquidity. One should also analyse how does the counterparty assess the longer maturities in their risk management process; are they mitigating their exposures at 50 years with 20- or 30-years instruments?. | |  |
| 2 | 32 | The fact that the UFR will keep decreasing according to the inforce methodology is not included in the assessment of the impact of the LLP and extrapolation method. We have to bear in mind that since the start of Solvency II, insurers willing to maintain a certain target for the solvency ratio had to increase their amount of capital in order to absorb the impact of the lower UFR; As the UFR is being adjusted every year, this trend will continue in the coming years. Thus, even if nothing changes the capitalisation will increase. | |  |
| 2 | 34 | The concern is only warranted in a winding-up but not in a going-concern situation. On a going concern, one should assess the probability of the interest rates being low for more than 50 years.  Rather than already assuming that interest rates will stay low for a very long period of time, supervisory authorities should ask how the insurer´s business model is able to cope with the challenges of a low-for-long scenario. The supervisory authorities should be asking questions concerning the business model going forward, the sustainability of products and guarantees, the ability to meet the agreed guarantees in the short and long term and the potential vulnerabilities insurer´s should be exposed to. | |  |
| 2 | 35 | In this paragraph, EIOPA assumes that insurers only invest in swaps to meet their liability requirements. This is not a realistic assumption. | |  |
| 2 | 36 | Distributions to shareholders and other relevant stakeholders are subject to the undertaking´s capital adequacy policy and the assessment of the capital position over the coming periods. In the insurers’-term capital plans, adequate provisions and assessments are based on the impact of these distributions. Also, in the stress scenarios, the distributions of dividends are to be included. The capital adequacy policy and the ORSA including capital plan distributions are reviewed by the supervisory authority. No additional restrictions are necessary. | |  |
| 2 | 39 | **2.2.4.2 Issue II – Risk Management incentives**  This is not only the case for the LLP, but also for the credit risk adjustment (i.e. CRA). If assets are discounted using the swap rate while liabilities are discounted with the swap rate minus the CRA a difference of at least 10 bp will be recognized. Whether this is the case also depends on the vision of the (re-)insurers over the behavior/size/shape for the interest rate after the LLP. There is a reason for an LLP. | |  |
| 2 | 40 | Interest rate sensitivity is now analysed in isolation and it is not considered based on a total balance sheet approach. | |  |
| 2 | 43 | EIOPA mentions the use of derivatives if no bonds/loans are sufficiently available. These instruments are effective in mitigating the risk. However, EIOPA seems not to have considered the wide implications if the majority of insurers would start using derivatives to hedge the maturities up to 50 years. The interconnectedness between providers of the derivatives and insurers would increase significantly, introducing additional systemic risk. Most derivatives will be subject to central clearing, introducing liquidity risk based on the collateral requirements. Furthermore, EIOPA should also consider the counterparties of the derivatives and the probability that those counterparties are located outside the European Union which also sparks additional concerns. | |  |
| 2 | 44 | EIOPA does not mention that investment decisions are also guided by ALM considerations (i.e. risk appetite policies), the targeted rating and PBT (i.e. target profit before tax) objectives. Multiple perspectives are applied subject to proportionality which guides the undertaking´s investment decisions. This is not solely based on Solvency II considerations. The multiple "chess boards" provide counter-balancing powers which will disincentivize onerous behaviors. | |  |
| 2 | 45 | EIOPA uses the term "may" to describe whether any deviation of the interest rate term structure used for the valuation of technical provisions gives wrong incentives for an adequate risk management. The question is whether EIOPA has observed this behavior in more than one NSA. In our view, EIOPA generalises this incident This behavior should be addressed as part of the supervisor dialogue between the undertakings’ AMSB and the NSA. | |  |
| 2 | 47 | EIOPA states that no other NSA's have witnessed this issue; we query why it is therefore mentioned as a general issue to be addressed if it has not been observed in practice. | |  |
| 2 | 290-294 | **Alternative extrapolation method**  We suggest to introduce a new Option 6 on the extrapolation in the Swedish IORP RFR, as a method complementing Option 5 for currencies that do not have the liquidity of the euro market.  The extrapolation in the Swedish IORP RFR does the interpolation by gradually phasing out market quotes. It is possible to derive relevant information from market quotes for longer maturities even if the instruments may not be DLT in a strict sense. The gradual phasing out means that the RFR term structure will be somewhat more consistent with information in relevant prices than if there is a sharp cut-off beyond which information is discarded.  The advantage of the Swedish IORP extrapolation1 compared to the Smith-Wilson methodology is that it better incentivizes for risk management, while it reduces procyclicality at the same time and the potential costs of rolling hedges [footnote 1].  [footnote 1]. The Swedish IORP extrapolation is essentially an implementation of the proposal of Kocken, Oldenkamp, and Potters for alleviating the “Dangerous design flaws in the ultimate forward rate”: <https://www.cardano.nl/wp-content/uploads/sites/2/2019/01/120713-Dangerouw-design-flwas-in-UFR.pdf> | |  |
| 2 | **Question to stakeholders** | | **Q2.1: What is your view on the options on the last liquid point for the euro (including the alternative extrapolation method) set out in this section**  In principle, the answer to this question should **not be given in isolation as it is linked to** other elements object of the 2020 Solvency II review. In our view, the outcome should not have **a negative impact on the Solvency position** because of the review in general and the assessment of the LLP/extrapolation in particular. Our opinion should be seen in the light of this statement.   * The **current criteria** as defined by the Solvency II legislation, being the “matching criterion” and the “residual criterion” **should remain** and should not be disregarded in the EIOPA´s proposals. These two criteria ensure the alignment in views with the primary market rather than an assessment based on a secondary or derived market such as the swap market. The key criterion, insurers should be able to earn, is important and does not result in a theoretical consideration of the DLT-assessment of the market and the various maturities. * The **LLP or FSP are key variables** in the determination of the Solvency ratio. The value of the technical provisions and the capital requirements where the best estimate is a volume factor is sensitive to the LLP or FSP. A too frequent shift in LLP will result in **undesired high volatility which should be avoided**. Currently, there is no mechanism defined how to deal with a change in the LLP. How will this be implemented without distorting the markets and having undue negative effects for Insurers who have to change their hedging, investment mix, etc? * In the advice on the LLP, EIOPA should also **consider how the methodology to derive the LLP or FSP holds up in crisis situations** where the liquidity of various maturities in the market reduces or even ceases to exist. We query how consistent the approach would be under these circumstances. * We are **against** granting the supervisory authorities the **explicit power to prohibit distributions** to shareholders or members (in case of mutual insurers) based on the assessment of the sensitivity of the LLP or FSP being 50 years. Currently, insurers already have to assess the impact of distributions on the capital positions before a distribution is proposed. If EIOPA were to introduce the assessment at the 50-year point as currently proposed, an **alternative Solvency II regime would be introduced** with an increased level of protection well beyond the 99.5% confidence level. The attractiveness of the insurance industry for investors will disappear if that uncertainty is introduced. This will be especially the case in adverse market circumstances. The proposed measure will also create pro-cyclicality and will not be in the interest of policyholders.   The disclosure of the 50-years sensitivity will **not** result in more insights into the insurers ‘vulnerabilities. The proposed additional disclosure towards the general public will only confuse the stakeholders. As there is clearly only a liquidity based on the swap market due to the existence of CCP, it is inconsistent with the DLT assessment. We do not understand how the market would benefit from this additional information. We could agree to the disclosure of a **sensitivity of the LLP most nearby with the current LLP**. Thus, if the LLP is 20 year, a disclosure of a 15 year and 30-year LLP could be appropriate.  Based on the market data, the existence of various criteria and the reasoning provided above, we support **Option 1**. With respect to Option 5, we are of the opinion that before taken this into consideration as a viable alternative, further research is needed with respect to the setting of the parameters. In any case, the variables should be related to the bond market and the negative impact that a change on the LLP can have on the insurer’s solvency II ratio should be compensated by improvements in other parts of the Solvency II regime. |  |
| **2.4 Volatility Adjustment** | | | | | | |
| 2 | 202 | | EIOPA carried out in 2013 an assessment of long-term guarantees measures for the European Parliament, the European Council and the European Commission*.* EIOPA suggested the introduction of the so-called volatility balancer. The volatility balancer was defined as a permanent and predictable adjustment to the risk-free interest rates with the objective to deal with unintended consequences of volatility*.*  EIOPA only refers to its advice as submitted to the European Commission. However, in order to provide a complete picture and a balanced view on the issue, the comments received from the stakeholders prior to the submission of the final advice should be integrated in the paper. |  |
| 2 | 202 | | The bullet point stating that "*the calculated spread (already excluding the portion linked to default risk) is adjusted to account for risk associated with the implementation of the adjustment by means of an application factor of 20%*" suggests that the 20% could be removed after the implementation of the measure. |  |
| 2 | 203 | | **2.4.3. Relevant legal provisions**  EIOPA indicates that the VA is motivated in Recital 32 of the Omnibus II Directive and specified in Article 77d of the Solvency II Directive. The calculation of the VA is further detailed in Articles 49 to 51 of the Delegated Regulation.  EIOPA refers to the Omnibus II Directive. Recital 32 reads as follows "*In order to prevent pro-cyclical investment behaviour, insurance and reinsurance undertakings should be allowed to adjust the relevant risk-free interest rate term structure for the calculation of the best estimate of technical provisions to mitigate the effect of exaggerations of bond spreads*."  EIOPA´s proposals may lead to a more procyclical nature of the VA. Furthermore, the Recital 32 suggests that the VA should be more related to the investments rather than based on the characteristics of the technical provisions. However, the different options proposed by EIOPA refer instead to the characteristics of the technical provisions and therefore do not consider the statements of the recital. |  |
| 2 | 227 | | EIOPA writes that *in reality, however, a change in interest rate will ceteris paribus lead to a change in market values, whereas cash flows will remain constant. Specifically, where the interest rate (, ) increases, it would be expected that the market value ( , ) of investments in bucket i (and the relative.* In the description of the issue, EIOPA´s analysis should consider that financial instruments mature and are reinvested. The overestimation of these cash flows is very limited. EIOPA describes in this paragraph the consequences of an interest rate increase only. In an interest rate decrease situation, which has been witnesses in previous years, there would be an underestimation of the cash flows. |  |
| 2 | 236 | | The conclusions which could be drawn is that the VA works well in the normal circumstances. Normal circumstances in which the Best estimate is calculated on a going concern basis. Only in very extreme circumstances there could be an issue. |  |
| 2 | 244 | | There is a third option: the current option is applied and only in extreme circumstances a different approach is used to accommodate for the apparent deficiencies as in most circumstances the current approach works as intended. |  |
| 2 | 248 | | EIOPA only presents the B-rated case, but it does not provide the same graphs for all the other instruments. It is therefore difficult to compare the different cases presented. |  |
| 2 | **Question to stakeholders** | | **Q2.2: Should the calculation of the VA be based on the CF-Freeze approach or the**  **MV-Freeze approach? Please explain your view.**  The arguments brought forward are convincing. However, there is no clear motivation for a change that will have an impact only for very few extreme situations of distress  Following the analysis presented by EIOPA, only in extreme circumstances there is a real observable difference between the two methods. However, there is administrative burden to change from one method to another. We also see conceptual difficulties in a change from one method to another and back. Moreover, EIOPA does not mention whether the new method would be feasible within the current reporting timeframes (i.e. data has to be submitted on a monthly basis).  We have no strong opinion on the move from one method to the other; However, the current method is simpler. As an alternative, the move from the one method to another could be requested only when an extreme circumstance emerges for a longer period.  The CF-freeze needs some assumptions to be made regarding for example "reinvestments" of matured cash flows but EIOPA does not mention this. We query whether there are there any other assumptions which should be made regarding the CF-freeze method? |  |
| 2 | 260 | | EIOPA explains that it has carried out intensive reviews and the current review has highlighted several deficiencies. However, EIOPA has not assessed the appropriateness of including all possible investments when determining the VA. One asset class which has not been properly included is mortgage loans; In some member states mortgage loans are a significant part of the insurers’ investments backing insurance liabilities. A proper treatment is needed to avoid several of the issues identified by EIOPA in this consultation paper such as the under/overshooting effects (i.e. basis risk) and the negative risk management incentives. Mortgage loans are specific investments which are normally not listed. The counterparties of mortgage loans are individuals, some of which also have a related insurance policy. Mortgage loans are recognized on the economic balance sheet for a longer term; Insurers have no objective to benefit from short-term price fluctuations. Data shows that the default rates on European mortgage loans are very low but mortgage loans are currently being assigned to corporate bonds for the VA calculation.  Proposal for treatment of mortgage loans via a separate index  As mortgage loans neither are traded on an active market, nor are there quoted prices, obtaining an economic value is based on a valuation methodology. The valuation methodology can either be based on a top-down approach or bottom-up approach. The latter involves more entity specific assumptions and possibly expert judgment. For the proposal we refer to the “top-down approach”. Under the top-down approach the spread is derived from market data.    Market rates for comparable mortgage loans can be obtained from the consumer market for mortgage loans. The mortgage rates from providers should be assessed for their quality (no action rates, sufficient cover of the whole market). From this rate the “swap rate” is deducted to calculate the “market implied discount spread”. From the “market implied discount spread” those costs are deducted which are not relevant for the valuation of an existing mortgage loan. These costs include (non-exhaustive list):  Pipeline risk is defined as the interest rate risk which exists for an issuer between the moment of putting forward a proposal to a consumer and the settling of this proposal in a legal manner. In principle the pipeline risk is determined as the cost of buying an interest rate swap in which the fixed leg is the mortgage loan interest rate as put forward and the floating leg is Euribor (or an equivalent benchmark). The IRS is obtained for a similar period for which the pipeline risk exists;  For both “marketing and sales” and “servicing at origination” these expenses reflect the net expenses.  For each Member State this exercise can be performed, based on which the index per Member State can be constructed and included in the determination of the VA. |  |
| 2 | 261 | | EIOPA identifies three main objectives that can be attributed to the VA. The third attribute “*recognize illiquidity characteristics of liabilities in the valuation of technical provisions*” cannot be linked to the objectives listed in Recital 32 of the Omnibus II Directive. |  |
| 2 | 262 | | If the third objective is eliminated, several of the deficiencies are not so apparent. A deficiency which is not mentioned is the less granular information used regarding the treatment of mortgage loans. |  |
| 2 | 266 | | EIOPA refers to the overshooting impact of the VA by which the dampening effect of the VA exceeds the effect of a loss in the market value of fixed-income assets; however, no reference is made to the undershooting effect of the VA; Currently, the shorter the duration of technical provisions the less effective the adjustment mechanism is against the duration of the assets affected by the volatility of the spreads. Additionally, and most importantly for non-life insurers, all the volatility of fixed income assets backing own funds including free surplus is not compensated for. |  |
| 2 | 268 | | In the duration, EIOPA should also consider the duration of the undertakings’ own funds. Insurers allocate fixed income securities to cover own funds. The undertaking’s own funds are an additional buffer which could cover for the exaggeration of the spreads; however, they are not considered in the equation. Moreover, the overshooting case when duration of liabilities is detailed at length and EIOPA does not consider the opposite case when duration of liabilities is shorter and the loss in the market value of assets is higher than the decrease in best estimates liabilities. The SCR and the economic balance sheet are both to be calculated on a going-concern basis. Another deficiency which has an impact is the inappropriate treatment of distinct investment categories such as mortgage loans and unrated fixed income securities |  |
| 2 | 269 | | It is worth mentioning that the VA and its potential benefits are not the only elements in the ALM and decision-making process of insurers with respect to investment mix. |  |
| 2 | 275 | | EIOPA should also include the duration of the own funds as part of the analysis. In that instance, the graph and observation would differ especially for Non-life insurers, the own funds comprise a big part of the liability side of the balance sheet. Investments are also backing the own funds. |  |
| 2 | 276 | | It is unclear whether EIOPA has included the risk margin as part of their analysis as reference is made to technical provisions only and not best estimate. The risk margin is not a cash flow item and should therefore be excluded from the analysis. |  |
| 2 | 277 | | As mentioned in Recital 32 of the Omnibus II Directive, the illiquidity of the technical provisions is not mentioned when addressing the VA, however EIOPA clearly makes that link. In our opinion the insurer´s own funds should be included in the equation. **The question is not on the illiquidity of the insurance liability but on the ability to avoid forced sales and the ability to keep receiving the agreed earnings of the financial instrument and value at redemption**. |  |
| 2 | 279 | | As rightly mentioned by EIOPA, the issue of forced sales should be considered by insurers. In a going concern, insurers are required to assess their ability to withstand any liquidity shock and the risk of forced selling i.e. the risk of having to realise the unrealised losses. Rather than using the VA to assess this risk, the liquidity risk management and liquidity stress tests are the proper tooling to this end. |  |
| 2 | **Question to stakeholders** | | **Q2.3: What is your view on the identified deficiencies of the current VA?**  In our view the **VA should better account for the risk premium earned by undertakings** and **better reflect their real risk profile**. Moreover, there are **deficiencies in the mitigation of the exaggerations of spreads** resulting in **artificial volatility** and **insufficient protection to own funds**.  Therefore, AMICE has already submitted a detailed proposal for consideration (see Annex 1).  AMICE identifies issues that bring, the non-life insurers perspective in the debate when assessing if the VA fulfils its objectives of protection of own funds and mitigation of artificial volatility. The issues are threefold:   * First, **there is no compensation for assets backing own funds** by nature of the construction of the prudential balance sheet (no discounting of own funds and VA defined as an adjustment to the curve used to discount BE cash flows) * Second, **an unfavourable duration mismatch due to lack of going concern approach** (contract boundaries truncate the BE duration which fails to reflect the going concern horizon to which assets durations are linked). * Third, **the too low application ratio (65%) is not justified when undertakings are able to demonstrate their capacity to hold bonds to maturity if necessary**.   AMICE also points at, the **national trigger** as it is currently designed and which **proves to be inefficient** and to **creates cliff-edge effects**. This needs to be solved.  AMICE insists that **the refinements should avoid introducing more complexity** and we believe the above refinements could be solved with **simple remediations** such as the **all-in increase at entity level of the application ratio up to 100%** or above where necessary to compensate several undershootings.  EIOPA describes eight deficiencies which could impair the objectives of the VA as interpreted by EIOPA. EIOPA has identified three objectives of the VA, however in Recital 32 of Directive 2014/51/EU the following is mentioned “*In order to prevent pro-cyclical investment behaviour, insurance and reinsurance undertakings should be allowed to adjust the relevant risk-free interest rate term structure for the calculation of the best estimate of technical provisions to mitigate the effect of exaggerations of bond spreads. Such a volatility adjustment should be based on reference portfolios for the relevant currencies of those undertakings and, where necessary to ensure representativeness, on reference portfolios for national insurance markets. Insurance and reinsurance undertakings should publicly disclose the impact of the volatility adjustment on their financial position to ensure adequate transparency.*”. The third objective as mentioned by EIOPA (i.e. “recognise illiquidity characteristics of liabilities in the valuation of technical provisions”) is not included as an objective of the VA in that recital.  We agree with the deficiency 1 the possibility for an undershooting or overshooting of the current VA-approach. In any solution **both** should be addressed to avoid material basis risk (i.e. the own portfolio deviates significantly for the reference portfolio used which could lead to lower or higher adjustments in the valuation of the best estimate).  We do not agree with deficiency 2 as this is never been the objective of the VA. The issue which has to be addressed by the VA is the exaggeration of the bond spreads. This is done by adjusting the insurance liabilities. The VA refers to the actual economic balance sheet and not to the capital requirements. In the assessment of the illiquidity one could easily state that this is already included in the best estimate which basically serves as a volume factor to adjust the exaggeration of the bond spreads. In the best estimate, the insurer has already included best estimate assumptions with respect to mortality and policyholder behaviour.  Furthermore on deficiency 2, EIOPA do not account for own funds when it states in paragraph 2.278 that *“Where liabilities are illiquid, they can be valued by replication with illiquid assets that may yield an additional illiquidity premium; put differently, undertakings may be able to realize an additional return as stable insurance cash flows”*. We want to stress that **own funds are highly illiquid liabilities** and **those liabilities are not linked to “insurance cash flows”.**  It is of the utmost importance to recognize that own funds are a stable liability smoothing the volatility of the balance sheet and allowing longer term views for undertakings.  We regret that this regretful lack of consideration for own funds as a key liability seems to flow through the whole consultation document.  We agree with the cliff effects which arises if the country mechanism kicks in.  We do not agree with EIOPA’s analysis as included described in the fourth deficiency. EIOPA indicates that there is a misrepresentation of the risk correction. EIOPA refers to academic research as basis for their proposal. However, as clearly mentioned in the paper “We find that stock market returns, stock return volatility, and changes in GDP are strong predictors of default rates. Surprisingly, however, credit spreads are not.”. Secondly, the research does only refer to the US bond market in an historic context and does not relate to other fixed income categories such as government bonds or covered bonds or other secured securities. We do agree that there is some correlation between exposures which have migrated (downwards) from rating categories and the default rates of these exposures. But that is significantly less than EIOPA’s approach.  EIOPA mentions “VA almost always positive; not symmetric, i.e. no resilience builds up in “good times”” as a fifth deficiency. However, we are not sure why this is mentioned as a deficiency. The two possible situations as mentioned by EIOPA are far stretched and assumes all insurers would show herding behaviour. The investment decisions of Insurers are guided by more elements than EIOPA assumes in their condensed explanation of this deficiency.  On the fifth deficiency, one has to assess what it would imply if a VA would be negative and how often that would occur. Based on the scarcity of the occurrence this is not a real issue which needs to be resolved in the design of the VA.  As sixth deficiency, EIOPA mentions that it is unclear how assumptions underlying the VA have been evidenced. It is true that not all decisions are backed by clear evidence and historic calibrations. But that could also be said of some other elements within the Solvency II calibration of the  (sub-) risks. The information backing several required scenarios is also based on single events or data of a single market and then extrapolated to apply for all Member States. The explanation and interpretation of EIOPA of the underlying assumptions does not justify any (additional) inclusion of prudence in the calculation of the VA.  We do not agree with the seventh deficiency as mentioned by EIOPA, because the VA is only a means to an end i.e. it is a mechanism to address the exaggeration of the bond spreads. |  |
| 2 | **Question to stakeholders** | | **Q2.4: What is your view on this deficiency of the country-specific component of the VA? How should it be addressed?** **(You may want to take into account in particular the options 1, 7 and 8 set out in the following section.)**  A country-specific component of the VA should not be an option to respond to a crisis or event in a single country compared to the currency VA which does not make a distinction between country specific yields; the Country VA calculation should be seen in the context of a proportionate use of the VA.  As mentioned in Article 44 of the Solvency II Directive where the volatility adjustment is applied, the written policy on risk management should comprise a policy on the criteria for the application of the volatility adjustment: a written policy should therefore explain whether the insurer is able to use the VA or not.  A second assessment is whether the insurer is able to use the VA because the risk management criteria are met, the Currency VA is used. If the insurer concludes that the basis risk is too significant the Country VA should be calculated regardless of trigger levels.  A third assessment in the proportionate use of the VA is a subsequent assessment as to whether the remaining basis risk (i.e. difference between country layer and entity specific information) results in a significant basis risk. If that is the case, the entity specific information could be used to mitigate the basis risk. In this system, the basis risk should be minimal and the trigger point assessment and definition, the cliff edge effects and so do not necessarily exist. |  |
| 2 | 290 | | The graph depicts the spread development in corporate bonds in the “non-financial 4” category but not the default of this category. Moreover, EIOPA presents only the actual case of one specific category, but it does not display the case for the whole category of corporate bonds. For example, we query how the covered bonds behave during the financial crisis and whether there was any default. Further information is needed as to whether the behavior was similar to mortgage securitisations in the Netherlands. |  |
| 2 | 291 | | EIOPA points out that the historical evidence of credit spread movements indicate that when spreads increase, also the number of defaults increase; in that respect credit spread changes cannot be considered fully as exaggeration or artificial. EIOPA adds that “*academic research indicates that defaults take up approximately 50 percent of the credit spread”,* quoting a paper from K. Giesecke et al. However*, the* paper demonstrates instead that there is not a direct connection between spreads and default, Furthermore, the authors find that credit spreads are significantly influenced by factors that are difficult to link to credit fundamentals and that they find little or no evidence that credit spreads respond to current or lagged default rates. The Authors then conclude that *“Taken together, these counterintuitive results support the view that corporate credit spreads are driven largely by factors such as illiquidity”.*  Finally, we would like to recall that the VA was introduced precisely because in some specific situations the spreads during the debt crisis were not good indicators of the default levels but rather an indication of the extreme risk aversion of market participants. Hence, the fact that the risk correction does not increase is fully in line with the intended design of the VA. |  |
| 2 | 292 | | The information referred to is based on time series up to 2008 but it does not go into detail of the 2008-2012 period, which EIOPA provides as evidence. We query as to whether this information is still relevant considering the turn of events following the 2008 financial crisis and how that related to all different investment categories which can be identified in the corporate bonds portfolio. In their abstract, the paper even states that credit spreads do not appear to have predictive power for subsequent default rates. It also refers to US data only which is not reflective of the European’s reference portfolio. |  |
| 2 | 293 | | EIOPA states that the credit spread reflects a compensation for expected losses, a credit risk premium for unexpected losses, a liquidity risk premium and potentially a compensation/correction for other risks/options. All these components could be considered to be in the spread, but a real split into the components and subsequent quantification will have to be subject to a lot of expert judgment. Moreover, there is not unanimity across the academic community about that split. A component of the spreads in the form of a mere remuneration to attract investors should also be envisaged as suggested by some literature. |  |
| 2 | 296 | | EIOPA presents a case of pro-cyclicality with respect to the "search of yield". EIOPA does not mention however that riskier assets imply higher capital requirements. The insurer’s decision to invest in certain assets is based on a risk/return trade-off and not on the VA. Moreover, insurers invest on a going concern basis and the procyclical effect mentioned by EIOPA is somewhat far-fetched. |  |
| 2 | 297 | | See comment above |  |
| 2 | 300 | | EIOPA seems to indicate that the use of the VA is contradictory with the market consistency principle since markets provide for only one value for a given financial instrument, otherwise arbitrage is possible. However, Recital 32 of the Directive 2014/51/EU clearly mentions that in order to prevent pro-cyclical investment behavior, insurance and reinsurance undertakings should be allowed to adjust the relevant risk-free interest rate term structure for the calculation of the best estimate of technical provisions to mitigate the effect of exaggerations of bond spreads. It is precisely to enhance the market consistent dynamics of the BE estimate valuation behavior with the one of the assets marked at market that the VA is needed. |  |
| 2 | 318 | | For mortgage loans there should be a separate treatment (see comment to paragraph 2.260) |  |
| 2 | 320 | | See our comments at Option 6 |  |
| 2 | 324 | | EIOPA states that regarding Option 1 – undertaking specific VA *“thus there is no unique transfer value for undertakings with similar liabilities".* However, in the transfer of an insurance liability, the third party is also able to use the VA and thus has a similar value. This should even be recognised in the value and calculation of the risk margin.  Risky investments will probably provide a higher return and a higher VA; however, it will also result in a higher capital requirement. As long as this increased capital requirement will outweigh the benefits of the VA, the incentives will not be there as the surplus capital will decrease. |  |
| 2 | 325 | | The safeguard as mentioned under a) is treating any exposures below BBB as risky. We query how this safeguard is used for non-rated investments. These can have a very well and established track record; they can also have a very good default rate. This safeguard will have a negative bias towards those type of investments. The safeguard under a) does not work well for countries where the CQS is already at this level; Any CQS of individual exposures will be lower.  The safeguards as mentioned under (c) could be appropriate. However, we see no added value for requesting a disclosure in the SFCR. Reporting the information to the supervisory authority only is deemed to be more appropriate. |  |
| 2 | 325 | | In the assessment of "potential for wrong incentives", EIOPA should look at the already implemented Solvency II governance and risk management processes including the prudent person principle. EIOPA does not consider that insurers make investment decisions on multiple other elements rather than the VA alone; Insurers, who have a rating provided by an ECAI, will also have a different perspective when investing in riskier assets. This could impede their targeted rating.  Option 1 is presented in isolation; therefore, another safeguard is difficult to present in this section. See the answer to Question 2.5. |  |
| 2 | 326 | | The safeguards mentioned by EIOPA (especially the risk-correction) will have a pro-cyclical effect. The risk correction should have a relationship with the actual/expected default after the exaggeration of the spreads. Under (c) EIOPA mentions some safeguards, however EIOPA already collects on a frequent basis asset-by-asset information (QRT S06 02); we query why is this additional information needed. The NSA can already assess whether insurers comply with the prudent person principle, the ALM policies, their risk appetite statements and identify vulnerabilities which should be addressed.  No additional safeguards are therefore needed; following the supervisory dialogue between insurers and the supervisor should suffice. |  |
| 2 | 327 | | The mechanism proposed by EIOPA assumes that the risk which should be captured by the RC is increasing progressively with the lower CQS (rating). This has never been the case. In times of crisis, the liquidity of the markets deteriorates; The trades in exposures with lower CQS will be the first to hit, and this in turn will drive the spreads upwards. This does not reflect the similar increase in defaults or possibility of defaults. The risk correction as proposed by EIOPA is used to other purposes than the purpose as described in article 77d (3) of the Directive. The current proposal will also have a negative bias towards non-rated exposures. |  |
| 3 | 331 | | Concerning the safeguards on Pillar II, we consider that the ORSA should remain as much as possible an own risk and solvency assessment and the sensitivity analyses to be performed should be based on the undertaking’s risk profile rather than on a normalized list.  Moreover, the statement in the paper that “*the average credit quality of the portfolio would be lowered with the only intend to improve the solvency position*” assumes that the gain for the undertaking from the VA application is higher than the increase in capital requirements. |  |
| 3 | 332 | | We do not favour any additional reporting. The overall review of Solvency II should aim at adding new simplification and soften that operational burden for undertakings rather than adding new reporting constraints. |  |
| 2 | **Question to stakeholders** | | **Q2.5: What is your view on the safeguards to avoid wrong investment incentives? In particular, how can wrong incentives with regard to investments in government bonds best be avoided?**  Please refer to our previous comments to paragraphs 2.325 to 2.332 to this consultation paper.  The objective of the VA is to mitigate the impact of exaggerations of bonds spread developments. The ability for insurers to avoid forced sales would indicate the circumstance in a going-concern that insurers are able to avoid the realisation of the spread risk associated with this exaggeration. In order to avoid unjustified capital relief, an insurer could treat the net result of the exaggeration of the bond spreads and the VA as a non-distributable part of the own funds, if this is significant i.e. if significant basis risk is recognised, the amount of basis risk will be assumed to be non-distributable. This will also reduce the incentive for wrong risk management significantly, as the search for a higher VA, will lead to a higher basis risk and thus higher non-distributable part of the own funds, which could even reduce the eligible own funds.  EIOPA described the possibility to calculate the VA on a previous investment mix as one possible means to reduce the incentive for wrong risk management. We tend to agree, however, it should be stated that only significant alterations of the investment mix without proper justification by the insurer should be the trigger i.e. there should be a proper due process.  Another measure is the treatment of investments below investment grade rating. We also tend to agree with this approach. However, a solution should be provided for non-rated investment exposures. Several non-rated exposures have very low default probabilities and characteristics and/or (partial) guarantees/collateral requirements which should be reflected in the treatment (by the way this should also be included in the methodology applied for the risk correction). |  |
| 2 | 362 | | Option 4 is supposed to address *“the over and undershooting stemming from duration and ‘volume’ allocation mismatches."*  However, the cap introduced in paragraph 2.364 effectively hinders the application ratio to correct undershooting. We regret that having noticed under shooting cases, EIOPA has not leveraged on its advice diagnosis to fix this issue the way it did with overshooting. |  |
| 2 | 390 & 391 | | EIOPA raises the question whether any adjustment should apply to short term non-life insurance contracts.  We disagree with EIOPA´s conclusions for the following reasons:   * Non-life insurance liabilities are usually not redeemable (i.e. they cannot be lapsed), have a very predictable pattern. Such liabilities are therefore very illiquid and should not be prevented to benefit from the VA. * The fact that *“it is not straightforward to determine stressed cash-flows for non-life insurance”* mentioned in paragraph 2.391 may be debatable but is no reason to discard the logic explained above on the ability for undertakings to capture an illiquidity premium.   The illiquidity of liabilities focuses on insurance liabilities and do not account for own funds that are illiquid and leave the opportunity to undertakings to capture an illiquidity premium. This is an issue of importance for non-life insurers where own funds may represent a significant part of the balance sheet. It is an issue of importance for mutuals with their specificities in capital structure. |  |
| 2 | **Question to stakeholders** | | **Q2.6: Should liquidity buffers be recognized in the VA calculation? If yes, please describe how they should be recognized.**  The whole discussion about Option 5 does not make any reference to the illiquidity features of own funds. For instance, in paragraph 2.416 the classification of insurance contracts along their degree of illiquidity, could be extended to own funds. |  |
| 2 | **Question to stakeholders** | | **Q2.7: What are your views on Approach 1 and Approach 2? Your comments are also invited on the options that are implemented in Approach 1 and Approach 2 as well as on the other options specified in this section.**  Several points have retained our attention in these approaches:   * EIOPA points out that the current VA design may lead in some situations to over or undershooting. However, we note that the asymmetrical correction against asset volume and duration mismatch only caters for overshooting. We would suggest a more balanced approach that copes with both over and under-shooting in a balanced way. * Artificial temporary volatility associated with the widening of spreads should be compensated for assets backing own funds where long term management is exercised on the asset portfolio**.**   The computation of an entity specific ratio as the maximum between two entity specific ratios induces numerous extra computations to be performed before undertakings may start to compute the Solvency II balance sheet.  See also “General comments – AMICE’s proposal on Risk correction”. |  |
| 2 | **Question to stakeholders** | | **Q2.8 What is your view on the general application ratio? Should it be changed in case approach 1 or approach 2 to the VA design would be adopted?**  In both approaches, we are the opinion that there is no justification for the GAR. Considering EIOPA’s approaches and identified issues, there is no justification to remain with a GAR of 65%. We even tend to state that the GAR should be 100% based on content of the current approaches. |  |
| 2 | General comments – AMICE´s Proposal | | **Risk correction** Introduction EIOPA has specified the following deficiencies for the risk correction [1]:   1. Almost insensitive to credit spread changes 2. Does not reflect the actual default losses 3. Does not reflect the credit risk premium for unexpected losses 4. Unnecessarily reflects the cost-of-downgrade   EIOPA has proposed to base the calibration risk correction on the academic literature on liquidity risk. In particular, EIOPA has defined the risk correction is everything that is not liquidity premium. However, when addressing the four deficiencies above, it seems more natural to focus on cash flow losses (in particular credit risk). The problem with a liquidity premium is that it is very difficult to define and to measure. We argue below in more detail that the risk correction should measure cash flow losses. Cash flow risk can be defined and measured in a direct and objective manner and it is the relevant risk for insurers to address under a buy-and-hold strategy during crisis times. Risk correction We start by introducing some relevant concepts behind the Matching Adjustment (MA), the Volatility Adjustment (VA), the application ratio and the risk correction. When it is conceptually clear what each component should measure, a quantitative framework can be developed. The central reasoning behind the MA is that a certain asset spread, namely for liquidity risk, can be earned with limited risk, if the corresponding asset is used to match an illiquid (stable) liability and is held to maturity. Namely in that case, liquidity risk does not affect the company holding the asset, since the replicating asset is not sold in the meantime. Solvency II regulation allows to include the corresponding illiquidity spread in the valuation on the liability side. The logic is that stable liability cash flows can be hedged with illiquid assets, which makes the liabilities less expensive, because they are replicated by cheaper instruments.  In case of the Volatility Adjustment, the matching criteria are less strict than for the MA, but the financial background is similar. Insurers avoid forced selling in times of crises, which limits liquidity risk under stress. An application ratio is used for the VA to account for less strict matching and illiquidity criteria compared to the MA. EIOPA formulates the main objectives of the VA as follows [1]:  1. Prevent procyclical investment behavior;  2. Mitigate the impact of exaggerations of bond spreads on own funds;  3. Recognise illiquidity characteristics of liabilities in the valuation of technical provisions. Concepts In order to develop a conceptual framework for the risk correction it should first be specified what the risk correction should measure (and what not). We first note that deviations from the matching assumption and deviations from the forced selling assumption in the VA should be addressed in the application ratio. To avoid double counting we should not address these issues again in the risk correction. We thus assume that (after applying the appropriate application ratio) sufficient cash flow matching and avoidance of forced selling holds. We will refer to these as the key assumptions.  As a next step it is relevant to clarify what is meant by illiquidity risk. Illiquidity risk is naturally defined in this context as all risks that affect the value of (fixed-income) assets without affecting the underlying cash flows. Illiquidity risk is defined in this way as the complement of cash flow risk. From the above discussion it is clear that under a replicating buy-and-hold strategy, only cash flow risks affect the insurer. An important example of cash flow risk is credit risk. In fixed-income contracts without exotic features credit risk is the main cash flow risk. In the remainder we focus on credit risk, but any other cash flow risks can be measured and included along the same lines. Example Having specified what the risk correction should capture, namely all potential cash flow losses (both expected and unexpected), we proceed by considering explicit examples.  *Case 1: Expected credit risk*  Because the application ratio should capture deviations from illiquidity and perfect matching, we apply the key assumptions of stable and matched liability cash flows for the risk correction. We denote the cumulative credit loss at maturity as . Cumulative credit losses for corporate bonds are standardly reported by data reports of credit agencies. We assume in first instance the cumulative credit loss to be predictable. The reason is to create a setting in which the risk correction can unambiguously be specified. Consider a stable liability cash flow at maturity . The matching asset is a zero-coupon bond with notional , because remains at maturity after including credit loss. The value of the replicating asset is given in terms of the risk-free rate and the spread as:  The value of the liability is by definition of the volatility adjustment given by:  In case of perfect illiquidity and replication, the application rate must equal1 to avoid inconsistent valuation. Using with the risk correction and, we obtain:  This is the expression for the risk correction in case of perfect illiquidity and perfect matching in terms of cumulative credit loss over the maturity of the bond, when credit loss is predictable. Again, deviations from perfect illiquidity and perfect matching should be captured in the application ratio. Typical historical average cumulative credit losses for 5-year BBB bonds are 50 bps, corresponding to an historical average risk correction of 10 bps. During the most recent crisis years cumulative default rates have been somewhat higher than the historical average (e.g. considering 5-year cumulative default rates for the cohort starting 2008), but the observed increase in credit losses has been much less than the increase in spreads.  We note that for financial bonds, the spreads for 5-year BBB bonds have risen to 1500 bps during the most recent crisis. The proposal of EIOPA is to use a risk correction of 60% in these cases. Using the above formula, this risk correction corresponds to a cumulative credit loss of about 35%. Considering a recovery rate of 50%, this means that the cumulative default probability implied by the proposed risk correction is about 70%. The observed 5-year cumulative default rates for BBB corporate bonds issued in 2008, which thus includes all crisis years, is somewhere around 1%. Even though central governments have bailed-out several financial institutions, the default probabilities implied by the EIOPA risk correction are very high, especially compared to observed default rates.  *Case 2: Unexpected cash flow risk*  Since credit losses are not perfectly predictable, it is natural to distinguish between expected credit loss and unexpected credit loss (see EIOPA requirement 3). into a schematic formula, we obtain:  Such a decomposition of a risk charge in terms of a best estimate part and the uncertainty around the best estimate is very common. Solvency II has made a very specific choice how to charge unexpected cash flow risks through the risk margin. The charge should be such that the capital costs to maintain solvency each year with a certainty of 99.5% is included over the lifetime of the financial contract. Capital charges and risk margins for default risk under Solvency II are known under the standard formula.  In case of a through-the-cycle risk charge for credit loss, the expected and unexpected credit loss should be modelled by their unconditional mean and risk margin. However, based on requirement 1 and 2, EIOPA seems to prefer point-in-time estimates of the risk correction, which means that the expected and unexpected credit loss should be modelled by the conditional mean and risk margin on the current economy. EIOPA suggests in particular that current credit spreads are related to future credit losses. Although this claim is not supported by the selected literature by EIOPA [2], we have seen in the most recent crisis that increased credit spreads indeed preceded increased migration and default risk.  If we combine the requirements for EIOPA to address expected and unexpected credit risk, as well as to include a dependency on credit spreads, then it is natural to consider:  The current risk correction of EIOPA has for corporate bonds, which is already quite high compared to historical credit losses for investment grade bonds literature studies. In the literature typically a lower fraction is found for credit losses [3]. In order to calibrate for the risk correction, the relation between observed credit spreads and credit losses in times of enhanced credit risk can be studied. Note that when credit spreads rise more than actual credit losses during crisis times, then is expected to be smaller than . For example, in the past crisis, credit spreads for 5-year bonds rose with a factor of 5 to 10 in 2008, while cumulative 5-year credit losses only rose with factor 1 to 2 over the crisis years. As a result, is expected to be a factor 3 to 5 smaller than if calibration is based on the most recent crisis. If calibration is based on all crises in financial history a weaker relation is expected [2].  A disadvantage for a risk correction that is too high for lower ratings in crisis times, is that it can lead to procyclical behavior and forced selling of the corresponding bonds when this is unnecessary.  **References**  *[1] EIOPA Consultation Paper on the Opinion on the 2020 review of Solvency II*  *[2] Giesecke et al., Corporate Bond Default Risk: A 150-Year Perspective, Journal of Financial Economics*  *[3] Huang and Huang, how much of the corporate-treasury yield spread is due to credit risk? Review of Asset Pricing Studies* |  |
| **2.4.7 Dynamic VA for the standard formula** | | | | | | |
| 2 | General Comments | | Contrary to EIOPA’s advice, we think that the SCR standard formula should be changed to allow for the dynamic VA. The allowance to use the **dynamic volatility adjustment** in internal models and not in the standard formula does not provide a level playing field in terms of Solvency II across insurers. The Level 1 text states that a total balance sheet approach should be applied. This principle is not followed in the Delegated Acts as in the spread risk module only reference to assets is made. However, this is foreseen in Article 181 of the Delegated Acts for the matching adjustment. A replication of this article for the volatility adjustment would allow standard formula players to apply the dynamic VA. There should be a consistent approach between the prudential balance sheet valuation mechanisms and the SCR computation. The calibration of the DVA should be inspired by the methodology underlying the VA, and here also, an all-in adjustment to the application ratio could factor all the features and capacity to hold bonds to maturity after the 1 in 200 shock. |  |
| 2 | **Question to stakeholders** | | **Q2.9 Should the dynamic VA be allowed for in the SCR standard formula? If yes, how should it be implemented?**  In the Directive 2009/138/EC, Article 105, it is stated that an insurance or reinsurance undertaking has to account for the effects of the scenario on the whole of the economic balance sheet:  “…*The market risk module shall reflect the risk arising from the level or volatility of market prices of financial instruments which have an impact upon the value of the assets and liabilities of the undertaking. It shall properly reflect the structural mismatch between assets and liabilities, in particular with respect to the duration thereof. … (d) the sensitivity of the values of assets, liabilities and financial instruments to changes in the level or in the volatility of credit spreads over the risk-free interest rate term structure (spread risk); ….”*  If an insurance or reinsurance undertaking uses the volatility adjustment (VA) in accordance with their risk management policy, applying the spread scenario will have the following impact on its economic balance sheet:   * On the asset side: Spread sensitive assets will decrease in value due to the increase of spreads. This will have an increasing effect on the deferred taxes and or actual taxation (subject to local fiscal legislation); * On the liability side: As spreads increase according to the scenarios applied either in the standard formula or (partial) internal model, the input values of the VA will change; This will increase the value of the VA. The increase of the VA will also have an impact on the value of the best estimate: This value will decrease, which in turn will have an increasing effect on the deferred tax liabilities or a decreasing impact on the deferred tax assets or actual taxation.   As the capital requirement reflects the impact of the scenario on the insurers’ basic own funds, the aggregation of the impact of spread changes on the assets and liabilities is to be determined; In the current practice, the impact on the assets is deemed to resemble the spread risk capital requirement, while the impact in the liabilities is expected to mirror the dynamic VA.  The calculation as described can be used for (partial) internal models and the standard formula. The resulting capital requirement is consistent with the actual risk profile of the spread sensitive parts of the economic balance sheet and the going concern requirement for the economic balance sheet and SCR’s computation. In a going concern, insurers are generally not affected by the market fluctuations caused by spread movements other than the risk of default; In this case, the insurers will be missing cash flows which are needed to support the benefits, claims and pay-outs to the various policyholders.  The implementation of the VA within the Standard Formula requires a change to Article 175 (1) of the Solvency II Delegated Regulation by adding « -SCRdva » to the formula.  The SCRdva can be calculated in two manners:   * the first approach is more precise and would require EIOPA to apply the scenarios as defined in the Delegated Regulation 2015/35, articles 176-180, to the calculated VA (reference portfolio) and publish a stressed VA to be considered by firms when determining the capital requirement for spread risk. Insurers would recalculate their best estimate based on the stressed VA and the resulting outcome would be the SCRdva. * the second approach would be to introduce a similar article as the one applied for the matching adjustment in the Spread risk sub-module; Article 181 of the Solvency II Delegated Regulation could be further elaborated to include the reducing effect of the VA. In this article appropriate consideration should be given to non-rated investment exposures. * The calibration of the DVA should be inspired by the methodology underlying the VA, and here also, an all-in adjustment to the application ratio could factor all the features and capacity to hold the bonds to maturity after the 1 in 200 shock.   We note that the introduction of the dynamic VA in the Standard Formula would not and should not impact the 0% risk weighting for Member State sovereign debt. |  |
| **2.6 Transitional measures on the RFR and on technical provisions** | | | | | | |
| 2 | 680 | | **Predominant application of the transitionals by undertakings without capital gap**  When Solvency II entered into force, all firms had the choice to apply a transitional measure on technical provisions. Some decided not to do so in order to show financial strength or smooth the volatility of the Solvency II regime (i.e. SCR ratios are very volatile and they can deteriorate very quickly).  Furthermore, any firm applying a transitional measure at a later stage should only consider the remaining period until 2032. |  |
| 2 | 684 | | We welcome EIOPA’s clarification that undertakings that do not meet the SCR without the transitionals need, according to Article 308e of the Directive, to have a phasing-in plan that sets out the measures they intend to take to overcome their dependency on the measures. However, undertakings that depend on the transitional to meet the SCR without the measures do not need to make a phasing-in plan. |  |
| 2 | 708 | | **Approval of transitionals after 1 January 2016**  To the extent that the current low interest rate environment continues, the **transitional measure** between Solvency I and Solvency II **will be less effective** in the first years of implementation and **will become more demanding as time goes by**.  We would have expected to find in the EIOPA’s paper an **assessment as to how the current low interest rate environment has an impact on the effectiveness of the transitional measure**. If the interest rates go down, the convergence to the Solvency II rates would be more difficult and more costly to achieve. If the interest rates would have gone up from the enter into force of Solvency II, the convergence would have been much faster. |  |
| 2 | 685 & 686 | | EIOPA explains that four NSA would not allow undertakings to start using the transitional measure at a later date than 1 January 2016. This is against the Omnibus II Directive which allows the application of the transitional measure at a later stage, |  |
| **2.7 Risk Management provisions on LTG measures** | | | | | | |
| 2.7 | General comments | | Regarding the LTG proposals we oppose EIOPA’s proposals to give powers to NSAs to limit capital distributions based on measures that are not consistent with the Solvency Capital Requirements that the European Parliament has set with the Directive. An undertaking holding capital at or above the requirements should in general be considered safe and sound. It should be able to operate without restrictions.  The requirement to publicly report the solvency position with UFR 100 basis points down, should be removed.  According to EIOPA’S LTGA report, there was no evidence of any wrong investment behaviour of insurers in the past period. |  |
| 2 | 762 | | We struggle to fully understand the implications of what is meant by “other voluntary capital distributions” and how this term should be interpreted exactly. The possibility for mutual insurers to allocate bonuses to our policyholders should not in any way be included in these distributions. |  |
| **2.9 Long-term and strategic investments** | | | | | | |
| 2 | 842 | | One of the main objectives of the European’s Capital Market Union aspects is to unlock more investments and to mobilise capital to be channelled into funding the European economy.  Here again, EIOPA’s advice should better account for the going concern perspective of insurance undertakings and their ability to avoid forced sales during adverse market situations and the realization of unexpected losses which stand for a key management action featuring a long term perspective investment management The measure of risk should remain the 1-year horizon value at risk but account for the possibility to smooth market fluctuations over longer term because of the management actions in place.  **Likewise, the advice should account for the operational difficulty to implement the criteria set in Article 171a. The application of the criteria should avoid undue operational complexity deterring, de facto, the application of the criteria for long-term investors. The application should remain feasible at a reasonable cost even for those undertakings using pooled assets backing pooled liabilities**.  **We would like to refer to a note that AMICE has already submitted on the criteria of article 171a (see Annex 2).**  We oppose EIOPA’s proposals that further criterion should be added to article 171a (1) with regards to long-term equity. Rather than adding new burdensome criteria the existing criteria should be revised to allow applicability of the article that is unduly restrained by some un- / counter-effective criteria;  Any additional criterion risks adding extra requirements and burden which will not only be onerous to apply but it will also reduce the practical use of these measures. There is a need to ensure that the new long-term equity category works in practice so that the lower risk faced by insurers investing in long-term equity and related equity investments are correctly captured and the barriers against investing in the real economy are reduced. Care must be taken in this area (and in fact all areas) to avoid adding such constraining criteria that will result in a limited application of this new asset class.  The use of excess returns (over the 10 years RFR) is not the appropriate measure to estimate losses, plain returns should be considered.  The use of the excess returns is generally used to compute risk-premiums that fuel the allocation between various asset classes and the comparison performed between expected risks and returns. However, the matter at hand is the estimation of the economic loss that may be faced in the case of an adverse market on a 1-year term horizon basis. In this case, looking at the risk premium is biased since the effectively registered loss is the loss in value of the underlying investment rather than the difference of return between two asset classes. What is needed is a proper assessment of the maximum loss possibly to be faced on a long term basis “annualized” to take into account the one year term horizon i.e. the maximum loss attainable on a 1 year horizon term basis considering the ability to smooth performance when managing equity investment with a long term stance and considering the management actions in place and the ability to avoid forced sales.  The following charts compares MSCI World and MSCI World excess returns over the 10-year US Treasury bond rate.    The wide difference between those two indices advocates in our understanding for picking plain index in state of excess returns while measuring the effective economic exposure. |  |
| 2 | **Question to stakeholders** | | **Q2.10: Should the correlation of risks between the participation and the participating undertaking be taken into account in determining whether a participation can benefit from the lower capital charge for strategic equity investment? Please explain your view.**  No. The correlation of risks is not the deciding factor whether the lower capital requirement can be applied or whether this is justified. If a risk perspective is to be applied, a look though approach could be used to evidence the lower capital requirement is justified. However, this should be applied in a proportionate manner in order not to increase the administrative burden. |  |
| 2 | **Question to stakeholders** | | **Q2.11: Considering the diversification of long-term equity risk with other risks: Do you have evidence to support any of the options set out in this section?**  **If the answer is “Yes”, please elaborate on it.**  That is not needed as this is shifting the perspective under which article 171a has been constructed and the way the modules and sub-modules are articulated for all risks in the Standard Formula.  The risk under consideration is still a risk that should be measured on a 1 year time horizon basis but considering the longer perspective under which the portfolio of equity is managed and that allows to smooth the performance/losses when the proper management actions and ability to avoid forced sales are in place.  One could either refer to an “annualized” or “conditional” VAR. |  |
| 2 | **Question to stakeholders** | | **Q2.12: Do you consider that the illiquidity of liabilities (and more broadly the characteristics of insurance business) are reflected in an appropriate manner in the current equity risk sub-module? If the answer is “No”, please elaborate on the changes that you deem necessary.**  We consider the illiquidity of liabilities and the characteristics of insurance business to be insufficiently reflected in the current equity risk sub-module.  While we welcome the new article 171a that acknowledges the long-term stance insurers can take in their investment practices, we regret that the criteria set forth suffer some deficiencies.  **Including equity investment backing own funds in the portfolio of equity eligible to Article 171a**  The condition confining the assignment of LTEI to the coverage of best estimates as stated in Article 171a-1(b) should be amended and completed in order to accommodate the additional situation of insurance undertakings with LTEI backing own funds. **At the very least, free surplus investments should get that latitude.**  The current wording of 171a-1(b) is to be maintained where segregations of assets or liabilities exist within an insurance undertaking’s balance sheet. In case of segregated funds, each fund should be scrutinized with regards to its own characteristics and constraints to check whether it meets the conditions of eligibility to LTEI. Likewise, where own funds are managed separately from technical provisions, they form a fund that should be analyzed against LTEI eligibility conditions.  For undertakings exercising ALM across the entire set of liabilities and assets as one pool on each side of the balance sheet, the analysis should be performed at this global level with no sub-set delineation of any sort. In this case, equity investments backing insurance liabilities as well as own funds should be perused for eligibility to the reduced equity shock against LTEI conditions at global level. Allowance for the diversity of ALM strategies Undertakings managing their balance sheets at a global diversified level with pooled assets and pooled liabilities are taking advantage of optimization effects that enhance risk diversification and management of risks where no specific requirement are impeding this core insurance ability. Therefore, Article 171a-1(c) and Article 171a-1(d) are not applicable to them.  For insurance undertakings where segregations of assets or liabilities exist (a feature that can have different sources like product design, law requirement, risk appetite and ALM choice) article 171a1(c) and 171a-1(d) are applicable. Moving from an ex post average holding period to an ex ante capacity of holding The current ex post assessment criterion is unduly challenging to comply with on top of being potentially volatile and would advantageously be assessed ex ante. Any ex post average duration will depend on many parameters that cannot be factored into one single value.  **The *ex-ante* holding period is appreciated beforehand through the capacity of investors to effectively detain equity investments for a long time, and notably avoid any sale at a loss**. Let us note that an *ex ante* approach would be consistent with the other criterion set in the article paragraph (g) and (h). It should also be noted that selling equities with a gain should be seen as a risk but rather is a good practice of smoothing performance over time as well as avoiding the development of bubbles.  On top of not being a good instrument to measure risk, any criterion based on an ex post average holding period will be a source of potential strong volatility.  We would suggest to change this criterion with the following. ***“The average holding period may be appreciated through effective economic exposure as demonstrated in the prudential balance sheet track record over the last five years”***.  Undertakings would be required to demonstrate thanks to their balance sheet track records the proportion of equity investments they effectively hold in their investments. **This formulation would present the advantage of operational simplicity and rely on the prudential balance sheet rather than on an ad-hoc volatile and potentially unreliable indicator**.  However, in order to avoid artificial effects due to the instantaneous snapshot of the balance sheet (e.g. an undertaking made a movement on the 31/12/N and reverses it on the 01/01/N+1), **an undertaking should use its strategic asset allocation in lieu of the effective exposure when it is not deemed to reflect the long term strategy of the undertaking**, provided it complies with a liquidity test (see below). Improving the assessment of forced sales Article 171a-1(g) should establish how to demonstrate the ability to avoid forced sales. We suggest to resort to the liquidity test proposed by AMICE for LTGA review 2020 (see Appendix 2) based on a 10% risk level for a duration of five years.  Undertakings should demonstrate on the base of the liquidity test their capacity to avoid a 39% or 49% loss and to hold their equity investments for better market conditions at least for five years in order to wait.  **The liquidity test has to be applied to the strategic asset allocation**, when the undertaking anticipates a deviation between the observed past allocations and future allocations. This allows to align the amount of investments eligible to LTEI reduced capital charge in line with the effective anticipated risk profile of the company. |  |
| 2 | 850 | | EIOPA states that according to the Commission staff working document, the set-up of the Long-term equity asset class (i.e. LTEI) is an extension of the reduced capital charge (22 percent) applicable to the DBER to long term investment in equity of EEA meeting certain criteria.  The Commission staff working document also mentions that taking into account the requests from some Member States and from the European Parliament, the reduced capital charge (22%) applicable to the duration-based equity sub-module will be extended to long-term investments in equity of EEA companies meeting certain criteria.  We consider that the LTEI is not an extension of the DBER (i.e. Duration based equity risk) as stated in the Commission staff working document; only the reduced capital charge is extended to the LTEI category. The LTEI and the DBER categories are very different in terms of the criteria and the application as mentioned by EIOPA (please see comment on paragraph 2.941). |  |
| 2 | 941 | | We have strong concerns regarding the EIOPA's proposal to phase out the DBER. EIOPA has been asked to “conduct a comprehensive review of the equity risk sub-module, and in particular to assess the appropriateness of the design and calibration of the duration-based equity risk (DBER) sub-module, of strategic equity investments, of long-term equity investments and of the symmetric adjustment”; We understand that only the design and calibration of the DBER is in the scope of the review and the proposal of phasing out the DBER goes beyond the mandate given by the Commission. Although both the LTEI and the DBER aim to address the risks of equity over longer time horizon, they are designed in a very different way. The DBER only applies to life undertakings providing certain occupational retirement provisions and needs the approval of the national supervisory authority whereas the LTEI sets some limits such as that only equities listed in the EEA could benefit from this measure. Furthermore, the LTEI requires the average holding period of equity investment to be 5 years and the DBER is rather focused on the ability of holding equity investment for at least 12 years.  We do not believe that the DBER could be replaced by the LTEI. Having the choice between the DBER and the LTEI does not add complexity to the Solvency framework; On the contrary, EIOPA’s proposal will create more complexity and unnecessary burden to undertakings with an approved use of the DBER. Indeed, phasing out the DBER will mean that the undertaking has to review its internal process and documentation, because the criteria are different between the DBER and the LTEI.  Moreover, the LTEI only came into force in June 2019 and some of the criteria remain unclear and subject to the NSA’s interpretation. Therefore, the option to phase out the DBER could be costly and time consumer for the undertaking using this measure, at least at the beginning, with no added value. We suggest to wait for the implementation of the LTEI in each member state before proposing any phase-out of the DBER. |  |
| 2 | 945 | | *“EIOPA considers that the lower capital requirement for strategic participation is justified if the risk is lower. Therefore, the criterion of lower volatility should not be deleted”.* CEIOPS advice in 2009 demonstrated a lower volatility of equities hold over a long-term horizon: This was the basis for a reduced shock in the duration-based equity approach. However, the demonstration was performed on a market index level and cannot be directly transposed into single investments. |  |
| 2 | 954 | | We disagree with EIOPA’s changes to CEIOPS methodology to calibrate equity risk and the use of excess returns.  First, this new methodology deviates from the standard Solvency II framework where only the loss incurred and not a double counting of the loss through unwidening is accounted for. Unwidening if considered should take into account   * a decreasing rate since the unwidening is performed for a one-year shorter maturity. * the future management actions that may affect unwidening (e.g. discretionary benefits, reallocation toward maturity, …).   Above all we are not asking for a change in the VAR horizon that would involve other risks and could involve the unwinding of the discounting of the BE. If that were true, it would also be true for all the other risks in the standard formula, not only equity risk.  The risk under consideration should remain a risk measured on a 1 year time horizon basis but considering the longer perspective under which the portfolio of equity is managed which allows to smooth the performance/losses where proper management actions are in place and where the insurer is able to avoid forced sales. One could either refer to an “annualized” or “conditional” VAR. |  |
| **2.10 Symmetric Adjustment Mechanism** | | | | | | |
| 2 | 983 | | **EIOPA´s Advice**  We are supportive of the advice provided by EIOPA. |  |  | | | |  | |
| **2.11 Transitional measure on equity risk** | | | | | | |
| 2 | 944 | | We are supportive of the advice provided by EIOPA. Furthermore, the transitional would already be ended by the time of entering into force of any adjustment to this transitional. |  |
| **3. Technical Provisions** | | | | | | |
| **3.1.5 Best estimate: Contract Boundaries** | | | | | | |
| 3.1.5 | **Question to stakeholders** | | **Q3.1: EIOPA is concerned that this could imply new burdensome calculation for some undertakings and therefore wants to ask the following question: Do you consider that homogenous risk groups may include profit-making and loss-making policies? If yes, why are these policies considered to be homogeneous even if a key aspect like profitability is so different? Concrete examples to illustrate the answers will be welcomed.**  Firstly, we would like again to remind EIOPA that insurance risks are not monitored on a policy-by-policy basis  but rather on a portfolio basis and the notion of profitability can only be seen at this portfolio basis. it is not possible to know in advance which policies will be loss-making and which will be profitable. Currently, firms group policies into homogeneous risk groups according to their technical features. Any grouping that would take into account profitability considerations (i.e. profitable and loss-making policies) would require profitability analysis at individual policy level as a first step and before grouping the policies into profitable or loss-making HRGs. The proposed approach will be very onerous from an operational perspective. Furthermore, the debate around how to determine the profitability of contracts is still open in the context of IFRS17 Insurance Contracts standard; IFRS 17 refers to the sharing of risks to describe situations in which the insurance contracts in one group include conditions that affect the cash flows to policyholders in a different group. The so-called “mutualization” or sharing of risks has an effect on the assessment as to whether an insurance contract is profitable or not. This is a key point of the Standard for which there is not consensus yet. We therefore advise EIOPA not to incorporate controversial elements of the IFRS17 discussions into the Solvency II framework. |  |
| **Calculation of Expected Profits in Future Premiums (EPIFP)** | | | |  |
| 3 | 74 | | We reject the proposed amendments to Article 260(4) of the Delegated Regulation on the calculation of EPIFPs. Currently, firms group policies into homogeneous risk groups according to their technical features. Any grouping that would take into account profitability considerations (i.e. profitable and loss-making policies) would require profitability analysis at individual policy level as a first step and before grouping the policies into profitable or loss-making HRGs. The proposed approach will be very onerous from an operational perspective. Furthermore, the debate around how to determine the profitability of contracts is still open in the context of IFRS17 Insurance Contracts standard; IFRS 17 refers to the sharing of risks to describe situations in which the insurance contracts in one group include conditions that affect the cash flows to policyholders in a different group. The so-called “mutualization” or sharing of risks has an effect on the assessment as to whether an insurance contract is profitable or not. This is a key point of the Standard for which there is not consensus yet. We therefore advise EIOPA not to incorporate controversial elements of the IFRS17 discussions into the Solvency II framework. |  |
| **3.1.7 Best estimate: Expenses** | | | | | | |
| 3 | **Questions to stakeholders** | | **Q3.2: Do you consider that the proposed definition may introduce barriers to entry for new undertakings? If yes, please elaborate the answer.**  EIOPA proposes to amend Article 31(4) of the Delegated Regulation by whichexpenses shall be projected taking into account the decisions of the AMSB of the undertaking with respect to writing new business. We agree with this proposal as some undertakings may decide to put certain business into runoff and no new business should be considered in those circumstances. |  |
| **3.2 Risk Margin** | | | | | | |
| 3 | General Comments | | We welcome the European Commission´s decision to ask for a further review of the cost of capital rate and to also extend the scope of the review to cover the additional points made around the design of the risk margin, the use of the VA or MA in its calculation, and the use of a fixed cost of capital rate.  The key proposals from the industry for amendments to the risk margin are the following:   1. reducing the cost-of-capital from 6%, and allowing it to vary with interest rates; 2. allowing for the market cost of reinsuring longevity in place of the risk margin calculation, including a mechanism by which this could be done without any need to amend the regulations; 3. Allowing for the MA or VA when projecting future SCRs; 4. Allowing for diversification between life and non-life business within the same entity and between different entities in the same Group; and 5. Allowing for the non-independence of risks over a lifetime, e.g. by applying an adjustment to projected SCRs. |  |
| 3 | 189 | | We disagree with EIOPA´s statement that the allowance of the VA in the risk margin would assume that the reference undertaking invests in risky assets. Currently there are no requirements on using the VA; a firm investing risk-free is allowed to apply the volatility adjustment in the best estimate. |  |
| **3.2.7.3 Issue III -Use of a fixed CoC rate** | | | | |
| 3 | 200 | | The objective of the comments to this section is to rely on the 2019 [study](https://www.actuaries.org.uk/system/files/field/document/Risk%20Margin%20Working%20Party%20Research%20Paper%20Final%2008082019_0.pdf) by the Institute and Faculty of Actuaries (IFA) on the risk margin review in Solvency II.  We study indicates that the risk margin is particularly sensitive to changes in risk-free rates. This volatility of the risk margin to interest rates represents one of the challenges in managing it in a rapidly changing interest rate environment. Interest rate changes have a dual impact on risk margin. With a reduction in the risk-free rate curve, firstly the BEL is re-valued upwards and so is the stressed BEL to calculate the individual risk capital, resulting in larger risk capital.  They add that this effect is amplified for firms using MA or VA, as these measures are ignored for the purpose of the risk margin calculation. The BEL and stressed BEL used to calculate the risk capital for risk margin purposes cannot use the MA or VA, thereby increasing RM SCR in comparison with the SCR for Pillar 3 disclosures.  Secondly, the costs of capital are discounted at lower rates, resulting in a higher overall present value for the risk margin  The risk margin is significantly more volatile than the BEL for the same business. This can be seen by calculating the risk margin as a percentage of BEL, and then looking at how this metric has moved from 31 December 2015 to the end of 2018. This is illustrated in the Figure 2. |  |
| **3.2.7.4 Issue IV – Assumptions used to derive the CoC rate** | | | | |
| 3 | 205-208 | | We disagree with EIOPA’s statement that there is not further evidence that the conclusions drawn in the 2018 are not valid anymore. We believe that there are several elements regarding the CoC rate proposal in the 2018 EIOPA’s advice that should be re-considered in 2020 before closing the subject and sending its advice to the European Commission:  EIOPA had indicated in 2018 that the CoC rate had to be equal to the cost of holding equity (ERP, the equity risk premium) and that it had to be modelled according to the CAPM and that the CoC rate should be in the range of 6% to 8% as a result. However, we note that:  • In the risk margin there is **no future business** (only the run-off). It is therefore relevant to analyze what is the difference between new business and the run-off cost of equity premium as the reference data includes both. As a rough estimate, we understand that the cost of equity risk premium for new business is between 5 to 8 percent higher than for the run-off as there are loads of different risks for the business that are not yet in the books. In any case, this parameter can be estimated and verified from the M&A data from the insurance sector. This shows that the value of the equity risk premium should be lower than the one put forward.  As the reference undertaking would have **no market risk** this should be taken into account when setting the CoC rate. Market risk represents more than half of total capital requirements and this risk is surely included in the observed 7.5% to 10% cost of equity. If such risk is not considered in the assumed run-off of the reference undertaking, the equity risk premiums should therefore be lowered accordingly.  We believe that the formula used was not correct. As indicated during our comments in the 2018 review, the formula had to be corrected as follows:  CoC = Cost of Equity – rf = β \* ERP  **Equity risk premium**: The methodology used by EIOPA to derive the ERPs should be revisited  We would like to reiterate that in 2018 EIOPA´s consultation paper EIOPA did not mention:  - Whether arithmetic average or geometric average was used. The discussion in the literature is well documented with a very strong impact, the arithmetic average being almost 50% higher than the geometric average, corresponding to half the variance of the returns as strongly emphasized in Damodaran study and explained below.  - (Historical return model) EIOPA used the 9.24% from the CRO Forum paper. First, this figure was a dollar-based return, not appropriate for the European market. Next, no indication was given about the conversion to dollar before 1999 after when the euro currency. |  |
| 3 | 205-208 | | **Calibration of the CoC Rate**  In order to calibrate the cost of capital (i.e. from the cost of capital used in the Swiss solvency test for BBB rated entities), it appears to be the **expected rate of return** that an investor would expect to obtain in the financial markets if he/she were to invest in BBB-rated organizations. This factor is therefore not based on a "value at risk" of 99.5% (probability of one event every 200 years) but appears to be a cyclical factor. Thus, one of the first questions is to assess the relevance of the capital cost as a fixed variable in relation to its nature. So, we could identify the cost of capital as the BBB bonds spread. Indeed, the asset return depends on two factors: the risk-free rate and the spread. These factors are volatile and do not have the same value from year to year. If a methodology for calculating this rate of return were to be determined, it would be variable. Thus, it seems more appropriate for the cost of capital to be determined according to this principle. This is the case for several factors in the standard formula such as the (1) **yield curve used to calculate the SCR interest rate** and the **Best Estimates** and (2) the dampener that is used to modulate the equity shock.  Focus on BBB spread  As a result, we will use the yields of BBB bonds to verify consistency with the 6% currently used in the Standard Formula. Indeed, the Barclays indices, based on the Bloomberg Barclays Global Aggregate Corporate Bond Index, shows that those investments represent a significant share of the market and seems to be a good indicator for this analysis: 50.6% of the BBB share of global investment grade corporate market on September 2019.  We will therefore look at bond yield indicators for BBB-rated companies and compare them to the 6% CoC rate set out in the Solvency II Directive. This yield is composed of the risk free rate and the spread rate. To simplify, we will use the French OAT rates as an assessment of the risk-free rate. The French OAT return rate does not present a significant difference with the valuation of the risk-free rate and, to the extent that we want to analyze a trend, this hypothesis seems appropriate. Since the 2007/2008 crisis, these rates have fallen from more than 4% to around -0.5%. Moreover, since 2015 these rates have fluctuated between 0% and 1%.  The second component of the bond yield- the spread - should now be addressed and in particular the spread of BBB-rated organizations. The capital cost factor has been calibrated according to the performance of companies with this rating.  Logically, the trend observed on spreads is similar to that of risk-free rates, which have fallen sharply since the crisis from 7% on 2008 to below 2% on 2019 (Source: the Barclays indices, based on the Bloomberg Barclays Global Aggregate Corporate Bond Index since 2001). In general, the BBB-rated company bond market has been offering since 2015 return rates between 0.5% and 3% (Source: Boursorama website)  This analysis reveals a significant discrepancy between the returns that can be claimed by investing in BBB-rated organizations (between 0.5% and 1% in 2019) and the returns modelled via the cost of capital of 6%. This confirms the assumption that the capital cost appears to be overstated relative to market conditions. It can be noted that the spread is strongly correlated with changes in the risk-free rate.  Calibration proposal  The objective of this section relies on the 2019 study by the Institute and Faculty of Actuaries (IFA) on the risk margin review in Solvency II; the study proposes alternatives to its calculation mainly through the review of the determination of the cost of capital. One of the arguments is that the cost of capital is a cyclical element. Thus, it would be highly indexed to the risk-free rate which has varied greatly since the introduction of Solvency II. The study finds that a formula indexed to the risk-free interest rate to which a fixed rate would be added could be the most relevant. Here is the proposed formula:  This “x factor” could be set between 30% and 40%. Furthermore, the study conducted by the CRO Forum in 2008 concluded that the cost of capital increased between 0.3% and 0.4% for each 1% increasing of the risk-free rate. The advantage of this formula would be to allow for an adjustment to the CoC in line with financial market conditions. Thus, it appears to be a good alternative to the fixed factor determined today.  **We therefore recommend turning the cost of capital into a variable factor indexed to the risk-free rate to which a fixed rate of between 2% and 3% would be added**. Today this formula would give a cost of capital factor between 1.5% and 2.5% which would be close to the current returns observed in the financial markets for a BBB rated organization. |  |
| 3 | General comments AMICE’s Proposal | | Further Topics: Group Risk Margin  We would like to reiterate that the calculation of the group risk margin should allow for intra-group transactions. Article 340 of the Delegated Regulation indicates that the consolidated risk margin should be calculated based on “consolidated data”. According to the Regulation, intra-group transactions are eliminated from the “consolidated data”. However, EIOPA indicated that for the calculation of the group loss absorbing capacity of deferred taxes (LACDT) the formula in the EIOPA guidelines is to be interpreted gross of intra-group transactions. EIOPA stated similarly in their response to a question on the risk margin and the MCR calculation; the consolidated risk margin should be calculated as the simple sum of the risk margin of the participating undertaking and the proportional shares of the risk margin of related undertakings, which means that the risk margin should be gross of intra-group transactions. Not eliminating the intra-group transactions from the group calculations for the risk margin leads to a risk margin which is not related to the best estimate on the balance sheet. We call on EIOPA to remove this arbitrary calculation of the risk margin at group level. |  |
| 3 | **Question to stakeholders** | | **Q3.3 Is your experience, if relevant, consistent with our conclusions that the risk margin can be more sensitive to interest rate changes for longer term business?**  (See our comments to paragraph 3.200). As indicated in the IFA study, the risk margin is particularly sensitive to changes in risk-free rates. Interest rate changes have a dual impact on risk margin. With a reduction in the risk-free rate curve, firstly the BEL is re-valued upwards and so is the stressed BEL to calculate the individual risk capital, resulting in larger risk capital. They also indicate that the costs of capital are discounted at lower rates, resulting in a higher overall present value for the risk margin  The risk margin is significantly more volatile than the BEL for the same business. |  |
| 3 | **Question to stakeholders** | | **Q3.4: What is your view on the assumptions underlying the reference undertaking where the original undertaking applies the MA or VA? Considering the approaches for risk margin calculation outlined in section 3.2.7.2, are any of the noted pros and/or cons inconsistent with your own views or experience?**  We disagree with EIOPA´s conclusion not to allow the MA and VA in the risk margin discount rate. As indicated in our comments to paragraph 3.189, the statement that the allowance of the VA in the risk margin would assume that the reference undertaking invests in risky assets is wrong. Currently, there are no requirements on using the VA; a firm investing risk-free is allowed to apply the volatility adjustment in its best estimate. |  |
| 3 | **Question to stakeholders** | | **Q3.5: Please note any possible approaches to the calculation of the risk margin you believe should be considered that have not been included under section 3.2. Please justify any such approaches,**  **Allowing for the non-independence of risks over time**  key point raised by the industry in 2018 in its response to EIOPA and in the IFA report is that the method of projecting the SCRs can lead to an overstatement of the risk to the reference undertaking. The IFA report indicates that, essentially, the risk margin as constructed assumes that the reference undertaking is recapitalised at each period end and only holds capital against risk for the next year. The SCRs projected are unconditional on events in previous periods.  However, in practice, the risks in each period over a product lifetime are not independent. “*For instance, certain risks are non- repeatable: that cancer can only be cured once is a simple example. Therefore, if there were losses in one period, the SCRs in future periods might be expected to be lower. This is important, as the rationale for a 6% cost-of-capital in the risk margin calculation is that the capital injected each period is at risk - if losses in one period would mean lower SCRs in future periods, then either the cost of capital may be too high, or the projected SCRs too high. To reflect this properly would require a full stochastic projection of the future evolution of the business*”.  This point has been also raised by the AAE it its recent “[A Review of the Design of the Solvency II Risk Margin](https://actuary.eu/memos/a-review-of-the-design-of-the-solvency-ii-risk-margin/)”. The AAE indicates that *If a mass lapse occurs one year then this reduces the potential impact of mass lapses in subsequent years, as it is impossible for more than 100% of the book to lapse across the whole lifetime of the book. Another* example in annuity business is the longevity stress (20% improvement) which if it were assumed to happen repeatedly might result in unrealistically long average life expectancies.  The IFA concludes that an alternative approach might be to allow for an “extreme but plausible lifetime shock”. The simple approximation proposed to deal with this is to allow in the projected SCRs for a time-scaling factor, where an adjusting parameter (0< <1) is applied to future projected SCRs; |  |
| **4. Own Funds** | | | | | | |
| 4 | 73 | | **Policy issue 2: Undue volatility generated by the current Tiering limits**  We do not agree with an interpretation that forces insurers to have all their surplus capital in Tier 1. Our main arguments are developed below:  1. There has been a large increase of DTA in many undertakings. This has lead to an increase of Tier3 items in the balance sheets and has decreased the ability of undertakings to satisfy the Tiering requirements.  2. Both the Solvency II Directive and the Delegated Regulation should clearly refer to the amount of Eligible Own Funds as the point of reference for the limits, and not the SCR or MCR. Own fund items do not have the same loss absorbency in all circumstances, therefore the limits defined should ensure the overall quality of eligible own funds, and not only of the own funds used to cover the MCR or SCR. Placing restrictions on the amount of capital that is eligible to cover the capital requirements shall reflect those differences.  To conclude, we reiterate that this question of Tiering (definition/criteria of Tiers linked with limits) is absolutely key and we therefore urge EIOPA to retain an interpretation that is consistent with the Solvency II Directive – meaning that there is no reason why the Tiering limits (min 50% Tier1, max 15% Tier3) should not be applied to all Eligible Own Funds including the surplus. |  |
| 4 | 80 | | 20% Sub-tier Limit  We would like to reiterate that many mutual insurers have, over the years, built up significant equity through ‘mutual member accounts’, i.e. cash available on its balance sheet. These mutual member accounts are treated, in accordance with the current framework as Tier 1 capital. However, Article 82 (3) of the Delegated Regulation limits its amount: only 20% of Tier 1 own funds of the type mutual members' accounts can be taken into account provided that at least 50% of the capital requirements (SCR) is covered by Tier 1 own funds. This means that for a solvent mutual, the majority of its capital disappears. This leads to erroneous situations in which a mutual entity suddenly cannot count the funds it has in its books as solvency capital, not even as Tier 2 or Tier 3 because of the other limits set in Article 82 (1)(c). The transitional measures foreseen in Omnibus II for subordinated debt are not applicable to mutual member accounts. We call on EIOPA to reconsider its position and to remove the 20% sub-tier limit for subordinated mutual members accounts. |  |
| 4 | **Question to stakeholders** | | **Q4.1: What is your view on the treatment of EPIFPs?**  The expected profits in future premiums (EPIFP) are the result of an economic valuation of all cash flows related to an insurance contract. EIOPA already mentions in this consultation paper that there is a direct link with the proper setting of the contract boundary. In our opinion the EPIFP is fully consistent with the underlying assumptions and principles of Solvency II. Moreover, any risks associated with the EPIFP are addressed in the mass lapse risk scenarios. Insurers are therefore holding capital against the EPIFP.  The reconciliation reserve does not differentiate between EPIFP and other items. If there is a loss, this is automatically recognized in the reconciliation reserve. If the EPIFP is questioned, this should be done symmetrically.  When assessing the EPIFP, EIOPA should also consider why this own fund item exists. This can be recognized in one year and multi-year contracts. One-year contract boundary can be mostly found in Non-Life and NSLT Health insurance.  If an insurer grants a policyholder the opportunity to pay the annual insurance premiums in multiple instalments, an EPIFP is recognized. A different treatment of EPIFP would see this option to policyholders being deleted. This is not in the interest of the policyholders.  Reference is made towards the Contractual Service Margin (i.e. CSM), a component of IFRS 17. This is not advisable as the fundamental principles of IFRS17 and Solvency II are not the same. One of the fundamental differences between Solvency II and IFRS17 is the measurement of technical provisions: In IFRS17, the technical provisions are valued for the amount of exit or transfer value whereas Solvency II is based on a fulfilment value.  As mentioned earlier, the EPIFP is the result of applying Article 18 of the Solvency II Delegated Regulation appropriately. Any supervisory convergence issues regarding the implementation of the contract boundaries should not target the EPIFP. In that sense the “symptoms” are targeted and not the “illnesses”.  Putting an arbitrary limit on EPIFP can have adverse effects on the policyholders as it could lead to insurance contracts having shorter durations which is not in the interest of clients willing to have certainty in their insurance cover and terms and policy conditions. A limit will also “punish” insurers who issue profitable business.  We agree with EIOPA that a relegation of EPIFP in the tiering limits will also have significant effects as the amount of Tier2 and Tier 3 eligible own funds cannot exceed the 50% of the SCR. For those insurers having a sizable DTA, the room within Tier 2 is only limited to 35%. Having EPIFP classified as Tier 2 will almost impede the issuing of Tier 2 capital and it will seriously limit the ability of insurers to (re)finance themselves. |  |
| **5. Solvency Capital Requirement standard formula** | | | | | | |
| 5 | General comments | | EIOPA urges to change the interest rate risk scenarios based on the current evidence and behaviour of the interest rate risk; This is a key area for change for EIOPA. We cannot deny that the current low interest rate environment is a challenge for the life insurance sector. However, the impact that this economic environment has in the Solvency II framework should be assessed in a holistic manner. Not only the interest rate risk sub-module should be looked at; an assessment of the appropriateness of the various calibrations and setting of factors and parameters of all interest rate sensitive modules and sub-modules of the Solvency II standard formula should be conducted. For example,   * Revision risk: it should be assessed whether the current calibration is also in line with the current low interest rate environment and inflation rates would have to be assessed * Expense risk: it should be assessed whether the current set of shock is not too extreme in light of the current and sustained low interest rates and inflation environment   Arguments used to evidence or reason why a change is required (e.g. interest rate scenario) should apply consistently for all similar type of calibrations.  One could even use the current review to consider some changes in the calibrations/setting of factors to make the calculation of the SCR less pro-cyclical with respect to inflation and interest rates. |  |
| **5.1 Interest rate risk** | | | | | | |
| 5 | General comments – AMICE’s Proposal | | **Interest rate risk**  We agree on EIOPA’s finding that the current way the interest rate down risk is calculated is faulty and needs improvements. Anyway, in EIOPA’s new proposal there is a lack of evidence backing the model and we believe the parameters and the model over estimates the interest rate down risk. For example, EIOPA has provided no evidence backing the numbers they are bringing in on the -200bps lower bound or on the way the model converges towards this (the model parameters). Also, the lower limit (-2%) has similar caveats than the current limit (i.e. +- 0%) in case this is reached someday.  We ask EIOPA to **investigate a new option with the following features:**  **Alternative framework for assessing interest rate down stress for maturity points until the LLP:**  This alternative approach has the following features:   1. There is always a downside risk but where there is no quantitative evidence this is set by using qualitative arguments. Backed by qualitative arguments, a fixed risk component can be found, for instance in range of -20 to -40bps. This would exist fully below a minimum level of interest rates, after which no data exists (r\_low in the image below). 2. We can quantify and therefore calibrate a Var 99.5 interest rate down risk from times when rates and volatility were in more normal levels, say 2 percentage points or such (r\_normal in the image). Also there is evidence that the Var 99,5% measure has radically increased during times of aggressive monetary policy in the Euro area \*\*\*\*.The quantitative interest rate down risk above this interest rate level would be equal to this calibrated risk but would reduce to zero as it gets closer to the minimal level (above in a.)  * The interest rate down risk would then be based to the qualitative risk component above normal levels, the quantitative risk component below the low level and combination of these two between these levels. The interest rate shocks beyond the LLP is developed in paragraph 5.34 below.   The rationale for this model would be the following:   * It is possible to calibrate the interest rate risk parameters at the interest rate levels where data exists. * We are generally aware of the dynamics behind the drivers of change (up or down) in risk free rates in Europe. Example of the topics to be included into a qualitative risk assessment can be found below \*. * We consider that there is always a possibility that rates can go lower but, in low level of interest rates where there is a lack of data, the risk should reflect only the qualitative expert judgement on the risk dynamics. * If interest rates were at a higher level, the risk of rates going down would be much higher and analysis of the risk would be supported by quantitative evidence.   The parameters for such a model could be identified using available data and appropriate expert judgement, e.g.   * historical Var 99.5 interest rate down risk * the level after which the interest rate (relative) risk would no longer increase * the interest rate low-end level * suitable parameters for the qualitative risk component, also reflecting how these parameters might need to change in different maturity points   The consistency of the interest rate up parameters with this methodology would also require to be confirmed. Similar approach could be used even though more data exist for interest rates going up.  \*) A qualitative assessment of the interest rate risk profile is needed to set the level of the qualitative risk component. All main triggers to lower or increase the rates needs to be investigated. This could include the following topics measured by the historical impact, the possible future impact and the rapidity of that impact:   * ECB actions \*\*   + Change of the official rates; deposit facility and refinancing rate   + Quantitative easing   + Forward guidance, which impacts strongly on the inflation expectation and thus on the maturity premium demand on the long maturities * Better risk-return profile from other liquid assets   + Investing into cash   + Investing into other highly qualified asset classes (HQLA as published by ECB) that are not strictly linked to the Euro risk free yield, Euro stock index for example   + Investing into alternative asset classes that are considered liquid (e.g. gold, raw materials) * The rise of digital currencies * Changes in how Euro-swaps are used in the market   + Individual citizens mortgage payment cap/floor hedges   + Institutional investors (economic) ALM purposes to hedge own funds \*\*\*   + Insurers to lower their SCR requirement   + Option pricing purposes * Convexity bias makes the long forward rates fold down because of the interest rate volatility (delta) * Changes in overnight indexes (EONIA, ESTER in future)   \*\*) The ECB monetary policy has had a big impact on the Euro risk free rates over the last 5 years (-90bps for 2Y and -135bps for 10Y according to publications from ECB, Philiip Lane Nov 2019). If the expectation is that this monetary policy cannot continue the same way as today, we might see only a fraction of a similar decrease of risk-free rates because of ECB actions.  \*\*\*) Introducing a new interest rate risk module or substantial changes to RFF in the current low yield environment would most probably force part of the industry into serious interest rate hedging programs which in turn would bring the euro-swap down even more – this would create a vicious circle which will be very difficult to break.  \*\*\*\*) By analyzing the Euro-swap historical one-year changes one can find that the 1Y swap VaR 99,5 has increased from -130bps to -405bps during 2001, 2003 and the financial crisis (2008-2009). All year when ECB lowered the deposit facility rate aggressively. The impact is high in short maturities but disappears e.g. on the 10Y maturity point.  An example of a possible framework would be the following:    This model can be plugged into EIOPA´s proposal but is also can be parametrized separately. If EIOPA´s model and parameters are used for maturity points below the LLP (i.e. 20yr in here), then we can modify it in the following way:    This gives us the following interest rate down risk against EIOPA´s proposal:    From here one can find that the interest rate down risk is on the minimum level nearly in all the maturity points (as alpha is zero or almost zero). The parameters (below) is set so that the r\_low increase to zero and the r\_normal starts from a 150bps 1Y level and then follow a term structure that could for instance be estimated from the history (by using nelson-siegel-mode etc.).    If making the same calibration for 31.12.2018 Euro-swap’s the we find that also then the interest rate down risk was close to r\_low in the very start of the curve but converges towards the EIOPA parametrization quite fastly.      This alternative model seems to keep interest rate down risk in the level where the qualitative parameter has been set when rates are low but requires additional parameters. The biggest need obviously would be the alpha-parameter which is a function of the reporting day Euro-swap curve. Anyway, Solvency II framework already has similar parameters affecting on the SCR, take Equity risk counter-cyclical premium for instance. Simplifications could be done but the main idea, that interest rate down risk when rates a historically low and data does not exist, seems to require a qualitative component and a balancing factor between the low and the normal levels of the rates. |  |
| 5 | 34 | | **EIOPA’s Advice: Shock on the extrapolated part**  Regardless of the method, the stress should be applied to the market rates used as input to the calculation of the RFR, and not to the calculated interest rates of the RFR. AMICE, in line with the views expressed by EIOPA´s IRSG during the 2018 review, believes that the long-term forward rate (UFR) in the discount rate curve should not be stressed. But if this is necessary, then the method applied for assessing the level of UFR using the prevailing extrapolation methodology should be adopted, as explained below.  The method for the calculation of the interest rate risk should be consistent with the method for determining the RFR. The purpose of the UFR is to give stability to the valuation of liabilities and reduce procyclicality in the absence of reliable data and liquid markets. An actual rise or fall in market interest rates will change the market value of assets and the value of liabilities as new market interest rates feed into the calculation method for the RFR. The calculation of the capital requirement interest rate risk should be calculated accordingly.  Under such a method, the impact of the stress on the illiquid part of the curve should instead be derived using the prevailing extrapolation methodology. Using this methodology, the annual change of the UFR is restricted to just three possibilities: +15 bp, +/−0 bp or −15 bp and a further advantage is that the direction of a possible UFR change is also known in advance. |  |  | | | |  | |
| **5.2 Spread Risk** | | | | | | |
| 5 | 73 | | We support the extension of the DVA to the standard formula (Option 4) to resolve the incorrect treatment of corporate bonds within Solvency II |  |
| **5.3. Property risk** | | | | | | |
| 5 | General comments | | CEIOPS carried out a first study at the QIS 3 exercise based on data from several European countries. We observe that the volatility of the UK market is greater (16% standard deviation) than in other European countries (around 9% on average). When we weigh all these shocks by the weight of each in the study, we obtain a shock around 22% (including the UK). CEIOPS had held a shock at 20%.  Regarding to the qualitative analysis results, it seems important to recalculate the real estate shock without taking into account the data of the British market and taking into account the disparities between the different European markets. With this in mind we carried out a quantitative study based on the results of QIS 3 in order to recalculate a shock outside the United Kingdom. It consists of resuming the observed averages and standard deviations and making an average using two methods:   * An average weighted by the weights of each country in the scope * A simple average   Then we recalculate the corresponding shock, as the standard formula provides, at 99.5% based on the standard deviation and the average obtained. Our analysis thus leads to a calibration of the shock between 15% and 16%.  INREV produced a [study](https://www.inrev.org/public-affairs/90-dossier-solvency-2/4995-updated-study-of-real-estate-volatility-challenging-solvency-ii-scrs-released-2) (Annex 3) on the real estate volatility for Solvency II purposes; The study added 6 years of data (2009-2015) and updated the capital risk analysis to December 2015. The report provided evidence that the pan-European property shock factor should **not be higher than 15%**. If UK were to be excluded the shock factor would be reduced to 12%.  A parallel study[[1]](#footnote-2) was conducted by EDHEC on March 2017, and showed that the shock also needed to be reduced significantly. It is based on the Investment Property Databank (IPD) data from the euro area (excluding the UK) and leads to a 10% shock valuation. |  |
| 5 | **Question to stakeholders** | | **Q5.1: Do you know data sources which would help to better calibrate property risk?**  The calibration of property risk is clearly faulty as the underlying data is not representative of the whole European industry. EIOPA acknowledges the existing evidence of the limitations of the current calibration for property risk, however it proposes no change; We request EIOPA to launch a new recalibration exercise with better and wider data.  One source of data is the MSCI report on real estate risk in Solvency II from 2017 which points out that the risk parameter for the UK market remained nearly the same (i.e. -24%) but for continental Europe it was half of this (-11,2%). But as the issue is way more complicated, other options should be also considered. For instance, a new option could be introduced, allowing for the use of USP’s in some restricted way. e.g. current risk lowered with say a max 10 percentage points reductions factor if there is enough evidence in favour of the reduction. The evidence should capture some large proportions, maybe 80% of the real estate investments over a number of years (5 year for instance) and also some level of diversification should be required. |  |
| 5.3 | **Question to stakeholders** | | **Q5.2: For Internal Model users please indicate the approach chosen to model property risk within your Internal Model, when applicable**  We suggest EIOPA approaches the National Competent Authorities to obtain the requested information from internal model players. |  |
| **5.4 Correlation matrices** | | | | | | |
| 5 | 153 | | We do not support EIOPA´s Advice to keep the market risk correlations unchanged.  For the industry it is very difficult to substantiate any change in the correlations based on quantitative data only because long data series are lacking and if they would be available these would only be for a limited number of Member States but not for the whole of the European Union. However, the original EIOPA´s calibrations are based on the same omissions. We would urge EIOPA to reconsider its proposals for a recalibration based on a qualitative reasoning instead. We provide several examples:   1. The correlation parameter between health catastrophe risk and premium and reserve risk is 0.25, i.e. a positive correlation despite the fact that no health cat events have been witnessed in the recent past, but only small events. In March and April 2009, an [outbreak](https://en.wikipedia.org/wiki/Outbreak) of the "swine flu" infected many people in [Mexico](https://en.wikipedia.org/wiki/Mexico) which triggered a nationwide vaccination regime. During the vaccinations a “normal” health care cover was deferred because people in Mexico were afraid going to places where the vaccinations were provided. If this behavior would have been considered in the Solvency II calibrations, a negative correlation would have been applied in the insurer´s internal models. However, there is not sufficient data available to pass the internal model calibration and statistical test. We would also challenge EIOPA to run the current statistical and empirical data underlying the standard formula for the same statistical and calibration test. We wonder whether they would pass such tests. 2. The correlation of the mass lapse scenarios; In order to qualify for a recalibration of the correlation parameters sufficiently evidenced proposals would have to be provided; However, long data series are only available in some Member States. A country factor for those jurisdictions with available data should be allowed as mass lapse risk depends on incidental events per Member State. Furthermore, the mass lapse scenario was increased from 30% to 40% after the QIS5 exercise without providing clear evidence. Such increment was subsequently applied to health lapse and non-life lapse risk sub-module. |  |
| 5. | **Questions to stakeholders** | | **Q5.3: Do you consider that the correlations within market risk, as well as the correlation between lapse risk and market risks should be amended? If your answer is “yes”, you are invited to provide quantitative evidence supporting your reasoning**  The European Commission requests in its Call for advice to EIOPA to assess the appropriateness of the entire correlation structure of the Solvency Capital Requirement Standard Formula and in particular the correlation between lapse risk and market risk, however only the latter is addressed in EIOPA´s consultation paper.  The study on interest rate correlations vs. equities and spreads does not imply in anyway how the correlations should be considered towards life lapse risk. This rationale needs to be better justified.  A positive correlation of 0,25 between market and life risk modules basically means than in a VaR 99,5% risk event these two risks amplify each other by 25%. As there is clearly no data as to what happens to lapses in a 1-in-200 market risk event, expert judgement should be used to judge whether the two risks amplify each other, they are independent risks or they hedge each other. With some risks, say longevity risk the independence seems to be quite self-evident but mass lapse risk for example, which by definition is the risk of losing the profitable part of the business only, is not so clear. During a market risk event there will surely be a lot of different reasons for policyholders to lapse their policies and it seems a hard assumption to believe that not only the profitable policies would lapse but also that this event would be amplified. |  |
| **5.5 Counterparty default risk** | | | | | | |
| 5 | 197 | | **Simplified calculation of the risk-mitigating effect of derivatives, reinsurance arrangement, special purpose vehicles and insurance securitisations**  We propose to clarify the definition of BSCR\*,without  as follows :  *BSCR\*,without is the Basic Solvency Capital Requirement without counterparty default risk* ***module*** *that would result if no derivatives, reinsurance arrangements, special purpose vehicles and insurance securitisations were in force.*  This clarification would avoid a possible inconsistency with the calculation of BSCR\* which is, as it is explicitly proposed above, calculated without the counterparty default risk module. |  |
| 5 | 198 | | **Calculation of RMi :**  We suggest the following formula in order to avoid that negative amounts become positive whereas they cannot be considered as having a risk mitigation effect: |  |
| 5 | 199 | | **Calculation of the hypothetical for the risk-mitigating effect of reinsurance arrangements**  We support Option 3 by which the SCR for the fire, marine and aviation risk is calculated on a net of reinsurance basis  and for the purpose of the hypothetical SCR in the CDR calculations the non-existence of the reinsurance arrangement does not alter the identification of the concentration for the fire, marine and  aviation risk submodules. This option would minimize the burden for undertakings. We had indicated to EIOPA during the 2018 Solvency II review that computing fire risk on the basis of the 5 largest exposures net of facultative reinsurance would have an impact on the risk mitigation effect in the counterparty default risk module. If the risk mitigation is to be computed on the basis of the Gross SCR net of facultative and SCR net of all reinsurance, we are making the assumption that there is no counterparty default risk in facultative reinsurance. However, if EIOPA requires insurers to compute the fire risk sub-module on a net basis we would support Option 3 as it avoids having to recalculate the Gross SCR. |  |
| 5 | 202-203 | | **Effective recognition of partial guarantees on mortgage loans**  We agree with EIOPA´s advice to adjust the requirements for the recognition of partial guarantees on mortgage loans, by adding a new text at the bottom of Article 192(4) of the Delegated Regulation. |  |
| **5.6 Calibration of underwriting risk** | | | | | | |
| 5 | 6.6 | | **Calibration of underwriting risk – Mass lapse**  There is no evidence of the calibration of the mass lapse scenario. During the QIS4 exercise the mass lapse scenarios were calibrated at 30%. The calibration was increased to 40% without proper justification.  The mass lapse scenario should be recalibrated for all underwriting risks. In some markets and based on experience the mass lapse scenario amounts to 20%. It should be allowed to mitigate the negative impact of the scenario by releasing the related risk margin. |  |
|  |  | |  |  |
| **5.8. Risk mitigation techniques** | | | | | | |
| 5 | 284 | | **EIOPA´s Advice**  Please see our answer to Q5.4 below. |  |
| 5 | **Question to stakeholders** | | **Q5.4 What is your view on the recognition of non-proportional reinsurance in the SCR standard formula? If you consider changes necessary, please make concrete proposals. How does the proposal address the double counting issue regarding non-proportional reinsurance covers between the CAT risk sub-module and other sub-modules impacted by treaties?**  It is true to say that the current (factor-based) approach to non-life and non-SLT health premium and reserve risk does not take full account of non-proportional reinsurance cover. However, **the approach is simple to use and is well suited to so-called attritional claims**, i.e. excluding exceptional events which are often the trigger for activating NP covers (particularly Stop Loss covers). This formula must remain as simple as possible while remaining "risk-sensitive". The fixed adjustment factor (80% or 100%) for non-proportional reinsurance is, from this point of view, a good compromise for the premium risk, even if **one may regret the absence of such a factor when considering NP reinsurance cover on the risk of reserve deviation** (ADC for example). The calibration work previously carried out by EIOPA to estimate the sigma of the reserve risk did not take into account the benefits of this type of cover because they were less present on the European insurance market in the 2000s than they are today.    **The possibility should therefore be given to apply such adjustment factors to the reserves**. For the sake of simplicity, we believe that these factors should by default be equal to 100% in the standard formula and that a better calibration could only be achieved through the use of USPs.  In summary;   * The formula must be kept **as simple as possible** * In order to adapt to the changing environment in the reinsurance cover market, **Solvency II regulations could introduce NP factors for reserve risk**; these would be equal to 100% by default in the Standard Formula and could be replaced by estimated factors using USPs to better take into account the insurer's risk profile. |  |
| 5 | **Question to stakeholders** | | **Q5.5: What is your view on the recognition of adverse development covers in the SCR standard formula? If you consider changes necessary, please make concrete proposals.**  See our precedent comment (see Q5.4) |  |
| 5 | **Question to stakeholders** | | **Q5.6: What is your view on the recognition of finite reinsurance in the SCR standard formula? If you consider changes necessary, please make concrete proposals**  N/A |  |
| 5 | **Question to stakeholders** | | **Q5.7: If EIOPA would to recommend a consistent treatment of contingent instruments (contingent capital and convertible bond instruments) between standard formula and internal models, one possible way of implementing this principle would be to clarify that the definition of SCR (Article 101 of the Directive) does not include planned basic own funds increases. What do you think about this clarification?**  N/A |  |
| **5.9. Reducing reliance on external ratings** | | | | | | |
| 5 | 321 | | **EIOPA´s Advice – General Comments**  AMICE fully supports the reduction of reliance on external ratings. However, the ability to develop internal measures is only available for few insurers because of the resources needed to develop such a system. Small and medium size companies should be able to use the rating for information at a reasonable. The European institutions should therefore ensure that the use of ratings is not overly expensive for SMEs. |  |
| **5.10 Transitional on government bonds** | | | | | | |
| 5 | 10 | | Transitional on government bonds – EIOPA´s Advice  We agree with EIOPA’s proposal not to extend the transitional measure on government bonds issued in a foreign currency. |  |
| **6. Minimum Capital Requirements** | | | | | | |
| 6 | 34 | | **EIOPA’s Advice**  We do not believe that the amendments proposed to Article 139(1) of the Solvency II Directive are needed as the current wording ensures that the MCR is complied with at all times. The clarifications provided are not needed. |  |
| 6 | 54 | | **EIOPA’s Advice**  We do not support the EIOPA’s proposal by which a finance scheme is being requested before the breach of the MCR. The aim is this plan is to determine a set of measures for the re-establishment of the compliance with the MCR. |  |
| **7. Reporting and disclosure** | | | | | | |
| 7 | General comments | | AMICE is not supportive of EIOPA’s proposal to split the Single SFCR into a multiple set of reports. This split means setting multiple deadlines to publish a single SFCR; We do support this proposal. The single SFCR report should not be split into separate reports with multiple deadlines as it would become impractical and contradictory to the purpose of having “one single document” in the first place. Instead, the components of the report proposed (i.e. group and solo policyholder and professional sections) should maintain the same deadlines for submission, preferably the group reporting timelines of 22 weeks.  On the **frequency of the RSR** full report, AMICE believes that a default frequency of the RSR should be harmonised at 3 years. The proposals set out in this consultation paper risk overcomplicating rather than reducing the burden. While we welcome the idea to reduce the reporting burden in the RSR overall, we are worried by the RSR proposals detailed in Annex 7.1, which we think they lead to further divergence between the structure and content of the SFCR and RSR reports in future.  Finally, we have strong concerns regarding the EIOPA´s proposal to request an **external audit of the Group SFCR**. The Solvency II Directive should not require any form of external scrutiny or audit of the Solvency II information. |  |
| 7 | 21 | | **Frequency of the RSR**  We believe that a default frequency of the RSR should be harmonised at 3 years. The proposals set out in this consultation paper risk overcomplicating rather than reducing the burden. Further, we do not support EIOPA’s proposal to leave the decision for RSR-frequency at the discretion of the supervisory authority. |  |
| 7 | 27 | | In the July consultation, EIOPA mentioned on page 13 of its consultation papers that the format of the SFCR had to be machine-readable but that the details would be put forward by EIOPA as part of the second wave of consultation. We note that nothing has been explicitly elaborated on this. |  |
| 7 | 29 | | **Content of the Regular Supervisory Reporting (RSR)**  We welcome EIOPA’s statement that the RSR can be simplified and that duplications and overlaps within the RSR and between the RSR and other supervisory reports should be avoided. However, we are worried by the RSR proposals detailed in Annex 7.1, which we think lead to further divergence between the SFCR and RSR reports, generally. We oppose this development; We see many benefits in maintaining the same structures and content (but more in-depth in the RSR) in the SFCR and RSR; there are benefits in maintaining the same/similar structures when building up and handling the production of the reports and the writing process. The RSR should be revised and its structure should be changed in a manner consistent with the proposals for the new SFCR structure. |  |
| 7 | 42 | | We welcome EIOPA’s proposal to amend Article 254 of the Solvency II Directive to allow for the exemption of groups reporting without the condition of exemption of all solo insurance undertakings belonging to that group. |  |
| 7 | 46 – General Comments | | **Group templates**  In general, it is challenging to have a clear view of the impacts of EIOPA’s proposals in the area of supervisory reporting and disclosure and whether EIOPA’s efforts to reduce the number of QRTs and the reporting burden have the intended impact because reference is often made to the proposals detailed in the first wave.  In particular, we refer to paragraph 7.5 of this consultation paper which states that further proposals to change the reporting and disclosure reporting are dealt with in different chapters. By reviewing the sections listed in paragraph 7.5 it is not always clear whether a new reporting requirement is proposed and/or a new QRT/new section of a QRT is being put forward or whether only new information to be reported is being identified. All the proposed reporting changes should be assessed together in a consistent manner.  Furthermore, EIOPA points out that this is a draft proposal not being the final version of EIOPA’s proposals – e.g. in section 7.73 it is mentioned that as a result of the consultation of group solvency changes proposed in QRT S.23.01, changes to the group OF templates may follow after any revision of the Solvency II Directive and Delegated Regulation. |  |
| 7 | 46 – General Comments | | **EIOPA’s QRT proposals: Core and Non-core QRTs.**  The main issue with the current proposal is that it is difficult to fully assess whether a categorization as “core” or “non-core” QRTs has any bearing on the overall reporting requirements. We doubt undertakings will achieve a lessen volume of reporting in the future.  There should be a more transparent way (which can be reliably predicted by the industry, using for instance quantitative thresholds or supervisory “scores” in the supervisory review) of knowing with some degree of certainty what the overall reporting burden is. With the core/non-core distinction this is not sufficiently clear. |  |
| 7 | 53 & 58 | | EIOPA proposes to reduce the reporting burden at group level by removing S.05.01 from the group SFCR Public Disclosure QRTs. The deletion of S.05.01 without removing S.05.02 would not add any relief in the reporting burden, as the two templates largely require the same kind of information. |  |
| 7 | 120 | | **EIOPA’s Advice on Group Solvency and financial condition report - Addresses of the SFCR**  We welcome EIOPA’s proposal to not introduce amendments in Level 1 (Directive) and Level 2 (Delegated Regulation) regarding the addresses of the group SFCR. |  |
| 7 | 121 | | **SFCR – The split between the section for policyholders and for professionals**  Generally and with regards to more clearly defined sections for “policyholders” and “professionals”, we have largely been supportive of this part of EIOPA’s approach thus far, as we have seen it to be either a) commensurate with the idea of clearly defined sections of the same report, making the SFCR more accessible also to our policyholders or b) where the split is inevitable, it would nonetheless come with the added benefit that overall SFCR requirements are reduced and this in particularly would be reflected in the content of the SFCR for professionals, which would be greatly reduced as a result. From what we can defer from EIOPA’s proposal which points to more reports being required in the future without any tangible evidence of a lessening of burden, we think this proposal needs far more work to achieve these ambitions in practice.  A viable alternative possibility, which we believe should be considered as an alternative to EIOPA’s proposal, is to instead let the Summary of the SFCR form the general & policyholder’s section with some additional information and more structured formats and prescribed graphs and tables. This would mean only one report in future and it would serve to improve the readability and comparability of SFCR for policyholders, while no fundamental change is made to the overall current structure of the report. |  |
| 7 | 123 | | **SFCR – The split between the section for policyholders and for professionals**  If the professional section cannot emanate in a report based on a low-cost data extraction with little or no burdensome narrative requirements, we think the current proposals should not be further pursued.  Our view is that, while we think EIOPA’s efforts to make the SFCR more accessible also to policyholders makes a lot of sense (for instance by splitting more clearly the policyholder section and professional section), we nonetheless think this proposal needs much more work to avoid increasing the overall reporting burden.  Enhancing accessibility to the information of SFCR for both policyholder or other professionals is basically a good idea. But as the EIOPA proposal stands now, by inflating what is needed in the policyholder section but at the same time not reducing any of the content in the professional section of the SFCR (or moving everything into the RSR instead), it is hard to see how the aim of reducing reporting burden can be achieved in practice.  In the current proposal the SFCR is essentially split into two separate parts, which contain the same chapters and cover similar topics. To avoid obvious duplication, the content in each part should be carefully reviewed so that there is no duplication of information and data at all. References between the different sections should be applied instead. Otherwise, the current proposal will entail a lot of extra work and add more burden for the insurers by having to update the same information in two different places.  The development of different sections with varying levels of “reader-friendliness” contains the risk of turning the SFCR into a very extensive and burdensome exercise for insurers, and also the risk of creating two reports posing as one in future. We question the value of doing this, also given the overall aim of the 2020 review.  We believe that in order to strike a good balance between EIOPA´s overall goal of enhancing policyholder understanding and the industry´s aim to find ways to reduce overall reporting burden associated with the SFCR further is needed on this area; an alternative to EIOPA´s proposal to replicate the SFCR in a policyholder friendly and a more technical section, with the risk of duplication of the same information in many sections of the report, would be to make better use of the existing “Summary” section in the existing SFCR report, this section could be more easily accessible to the policyholders, as was also the original intention behind the current wording of the Article 292(1) of the Delegated Regulation.  In this proposal, the Summary of the SFCR could form the basis of a general & policyholder’s section, with some additional information and more structured formats and prescribed graphs and tables. The benefit of this proposal is it would also improve the readability and comparability of SFCR, while less fundamental change is made to the overall structure of the report, while obtaining many of the same benefits that EIOPA is hoping to achieve by its proposal. It also means there would continue to be only one SFCR report. |  |
| 7 | 131 | | **External Audit of the SFCR**  EIOPA indicates that where auditing requirements are in place all NSAs consider these to be beneficial, improving the quality of the data.  Firstly, we would like to reiterate that the reporting deadlines are very challenging in the Solvency II framework. The shortening of the deadlines is obliging companies to resort more and more to proxies and simplifications. Imposing external audit would not solve this issue and would shorten even more the necessary period to prepare both the quantitative and qualitative information.  Secondly, Solvency II did only come into effect in 2016; the quality of data and information published has improved significantly and continues to improve due to the further exchanges between the supervisory authority and the undertakings and also due the big efforts made by the insurance industry to implement the Solvency II regime. Furthermore, we believe that regulatory stability also helps achieving this goal. It is therefore key that EIOPA does not add any additional data requirements and focus only on simplifications as part of the QRTs review.  Thirdly, before requiring external audit for all undertakings, EIOPA should further assess the benefits and costs of implementing this requirement and provide more statistical information. We believe that a better coordination/communication between NSAs would be more efficient rather than an extension of the external audit requirements.  Finally, in most jurisdictions the national competent authority is financed by the contributions of undertakings who are subject to its supervision; the external auditor’s role would therefore overlap with the duties of the supervisory authorities. If an external audit of the SFCR is required, additional costs should be beared by NSAs and not by the insurance sector. |  |
| 7 | 134 | | EIOPA indicates that the SFCRs are disclosed to the market and sent to the NSAs at the same time, therefore the review from supervisors can only take place after the undertakings have published their SFCR. In the supervisory review process, NSAs will check the information provided in the Group SFCR regarding their solvency and financial position.  The current Solvency II framework requires several lines of defence in addition to those of the supervisory authority; the system ensures the quality of information published, especially for undertakings with only national activities and a low risk profile. In our opinion, the added value of an external auditor is very low for insurers subject to Solvency II and it is also very costly in terms of financial and human resources. Besides, if any important error is detected, the undertaking should publish an updated version of the SFCR together with an explanation in accordance with the Solvency II regulation.  Finally, we query the benefit of disclosing the report to the market and sending it to the NCAs at the same time. Insurers could be requested to disclose their SFCR only once it has been reviewed by the NCAs. A maximum period of 2 months between the submission to the NCA and the publication could be defined. |  |
| 7 | 137 | | **EIOPA’s Advice on External Audit of the SFCR**  AMICE members have strong concerns regarding EIOPA´s proposal to request an external audit of the Group SFCR. The Solvency II Directive should not require any form of external scrutiny or audit of the Solvency II information.  We strongly reject EIOPA’s proposal here and in the previous consultation paper, to introduce an external audit requirement for the SFCR, be that for group or solo levels. This creates an unnecessary additional burden for the industry. We also question EIOPA’s calculations behind their proposal to extend the period of time to submit the report to 2+ weeks which we think is seriously flawed and not commensurate with the work actually involved in preparing the reports; indeed we query the added value that an external review could add in such a short timeframe unless the scope is extremely limited. EIOPA should consider that since the end of the transitional period, the timeline for reporting has already been reduced, and adding the audit requirement to the timelines beyond the transitional period is very ambitious indeed, as it will seriously curtail the time in preparing the reports. The further time needed for the audit will come at the expense of shortening the period of time used in preparing the SFCR, impacting on the quality of the report.  We think that many of the concerns that EIOPA raises when introducing the audit requirement with regards to data quality of the information included in the reports could be addressed instead by strengthening/highlighting those as part of the supervisory review process; Confer what is expected from the supervisory review process as set out in the extensive set of reviews listed in Article 36 of the Solvency II Directive which all serve to enhance the quality of the regulatory reporting, including the SFCR report, in more or less the same ways that EIOPA is hoping will be achieved through the introduction of an external audit requirement of the content of the SFCR. |  |
| 7 | 151 | | **Templates used in the SFCR**  Generally, it is very hard to gain a full perspective of the changes EIOPA is proposing; EIOPA mentions that they intend to keep unchanged the templates that are currently being disclosed, however there have been a significant number of changes proposed as part of the July Consultation and there is not clarity yet as to whether the proposed changes are due on the QRTs which are publicly disclosed.  Concerning the EIOPA’s ambition to reduce the overall reporting burden, we believe that not enough has been done in this regard.  Furthermore, the QRTs and the public disclosure templates should continue to be closely aligned or the same to ensure there is not duplication of effort. |  |
| 7 | 157 | | **EIOPA’s Advice on Single SFCR**  We reject the proposals with regards to the Single Solvency and Financial Condition Report (i.e. SFCR) as we believe they are “off the track” and risk reducing its use in the future, as the content and use of the Single SFCR will be severely impeded by EIOPA’s new proposals.  The proposals set out for the Single SFCR are unclear; EIOPA seems to divide the Single SFCR into two clearly separate reports, which is a development of the SFCR we would not support; different parts are prosed to have different timelines in mind for the policyholder and professional sections (sometimes “financial users” is mentioned instead, which adds some confusion) - where the former follows timelines proposed for solo reporting and the latter report follows timelines proposed for group reporting.  In this paragraph it is also stated that:  *“Considering that the Single SCFR includes both the SCFR at group level and SFCR at solo level, that the solo SFCR is proposed to have two distinctive parts (one for policyholders and another one for other financial users, and that the group SFCR will only have the part of other financial users”.* This would seem to mean that there is no group section included in the single policyholder SFCR, when this report is aligned with deadlines for solo reporting. The clear division between the two sections as separate reports was a proposal included in the EIOPA´s consultation in July 2019, but now the split seems to be “de facto” the way EIOPA sees the SFCR reports in future.  We think that the policyholder and professional sections of the Single Solvency and Financial Condition Report should not be split into two separate reports. Both should be separate sections of the same report and the deadlines for submission should follow group reporting timelines of 22 weeks. |  |
| 7 | Additional comment | | **European repository**  In the July consultation, EIOPA mentioned on page 37 of its consultation paper its intention to discuss with its members the best way to promote a national/European repository. In the current consultation paper, we note that nothing has been explicitly elaborated on this proposal.  Before pursuing these ideas further, EIOPA’s proposal should be further elaborated and also be subject to proper consultation with stakeholders. The benefits should be considered against the costs, both implementation and ongoing compliance costs. If the proposals imply earlier submissions of the SFCR reports, the quality of the written report will be impacted. |  |
| **8. Proportionality** | | | | | | |
| **Thresholds** | | | | | | |
| 8 | 30 | | EIOPA presents some assessment towards the policyholder angle. Normally, any increase in the level of capital to be hold by insurers will increase the protection of policyholders. As a consequence, any proposal by EIOPA to increase the best estimate/risk margin or the SCR will result in a short term increase in policyholder protection. However, EIOPA does not assess the impact on the long-term and how insurers will be affected in general in terms of costs on new insurance products, costs of innovative insurance products which take into account sustainability considerations and the competitive structure of the insurance market. Other factors such as the impact on entry barriers, consolidation of the insurance market and the possibility of fewer insurers to provide products and less competition is not considered in the paper. |  |  | | |  | |
| 8 | 34 | | EIOPA described the positive effects of all of its proposals. However, EIOPA does not assess the actual impact of all these enhanced measures on the functioning of insurers. The introduction of new plans, new activities etc. will result in duplications, increased administrative burden and the dispersion of management focus. We have not seen effective proportionality considerations within the new proposed measures.  In EIOPA´s opinion insurers should have in place a comprehensive plan in order to cope with all the perspective in an appropriate manner. The plan should be "as complex as needed and simple as possible". In the framework as suggested by EIOPA we can identify amongst others contingency plans, liquidity plans, systemic risk plans, recovery plans, pre-emptive plans, ORSA, etc. All these plans have so many features in common. A rationalisation would be needed to avoid the increase in the administrative burden for both insurers and supervisors. |  |  | | |  | |
| 8 | 35 | | We encourage a review of the treatment of liability business within the Article 4 conditions, with the possibility of considering it applicable in certain circumstances. |  |  | | |  | |
| 8 | 44 | | We welcome EIOPA's proposals but encourage a further review of the top threshold with respect to the individual market, or establishing the threshold by market share |  |  | | |  | |
| **8.2 Proportionality in Pillar 1** | | | | | | |
| 8 | General Comments | | The Directive must make clear that **NSAs have a duty** to always consider where they should allow companies to deviate from any specific requirements due to proportionality considerations, either by using approximations, simplified approaches or by not applying a requirement where appropriate.  **A "toolbox" providing a non-exhaustive list of simplifications**, alternative calculation methods and/or exemptions from certain reporting templates that can be automatically applied by companies when some predefined and risk-based criteria are met  EIOPA should publish an **annual report on proportionality** including proposals on how to improve its effectiveness and consistency.  AMICE-insurance Europe have already submitted a detailed proposal for consideration (see Annex 4). |  |
| 8 | General Comments | | **Proportionality Tool-Box**  The proportionality tool-box consists of the following proposals:   1. Introduction of a **clear risk-based specific criteria** for the automatic application of the measures of the tool box. EIOPA should develop these **clear risk-based criteria aiming at assisting NSAs** in their assessment of the nature, scale and complexity of risks and increase transparency in the application process of the principle. 2. A **predefined risk-based criterion** should allow NSAs to identify **low risk companies**, based on their overall scale, nature and complexity. 3. Companies would be automatically entitled to apply a list of simplifications and waivers, without any additional burden of proof and **without possibility for NSAs to object (there is not pre-application process)** 4. Individual measures of the tool-box can be **applied by all insurers** -> Proportionality could also mean choosing to not apply an individual requirement, on a case-by case basis -> Proportionality applies also for more complex insurers on non-material risks and lines of business 5. EIOPA’s annual report on proportionality, and any follow-up, should be **overseen by the new proportionality committee**which is required to be set up by the ESAs review 6. Applying proportionality **should not result in gold plating**, and proportionality should not be mis-used to increase the burden for some insurers 7. A proportionate supervision is key to ensure that Solvency II is effectively a risk-based framework |  |
| 8 | **Question to stakeholders** | | **Q8.1: In your view, are changes to the provisions on the calculation of technical provisions necessary in order to improve the proportionality of the requirements? Please make concrete proposals:**  **New simplification proposed – split Lob 29 Health SLT business**  The Lob 29 Health insurance capturing the SLT business (*health insurance obligations where the underlying business is pursued on a similar technical basis to that of life insurance, other than those included in Lob 33*) should be split between **medical expense and income protection disability – morbidity risk**. |  |
| 8 | 76 | | We agree with EIOPA that proportionality can be enhanced by introducing further simplifications to the calculation of the capital requirements (see below).  **Simplification best estimate non-life: Non-life lapse risk**  As a result of the 2018 review of Solvency II, EIOPA introduced a simplification by HRG for non-life lapse risk. We would like to remind EIOPA that insurance risks are not monitored on a policy-by-policy basis but rather on a portfolio basis. Simplifications for Non-life lapse risk over homogeneous risk groups (HRG) can be misaligned with the unbundling of insurance contracts. If a policyholder lapses it is assumed that all related insurance covers will lapse. Non-life contracts have different guarantees which are split across different HRG. When the policy lapses the different guarantees lapse as well, those which are profitable and those which are onerous. It is therefore meaningless to compute the Non-Life lapse risk sub-module at homogeneous risk group level. We reiterate the need to apply this shock at the best estimate level. The potential slight underestimation of this approach should be compensated by the high level of calibration of this risk (i.e. 40% shock). |  |
| 8 | 80 | | On the grouping method: As a result of the 2018 Solvency II review, EIOPA introduced a simplification so that insurers did not have to allocate the sum insured across the different Cresta zones. However, the option selected by which firms have to allocate the undertaking’s exposure to the Cresta zone with the highest risk weight in the region is very conservative and would hardly be used by undertakings. We rather support **the use of the risk factor for the region without consideration of risk zones and applying a prudency factor for the undertaking’s exposure**. |  |
| 8 | 83 | | **b. Method for risk mitigation, diversification and adjustments**  As a result of the 2018 Solvency II review, the largest risk exposures within the marine, fire and aviation risk sub-modules should be identified on a net of reinsurance basis. For fire risk this means that all possible combinations within a radius of 200m have to be assessed on a net basis. Those insurers whose reinsurance covers would not change the outcome of the fire risk sub-module, should be allow to carry out the calculation on a gross basis in application of the proportionality principle. |  |
| 8 | 87 | | EIOPA has developed two methodologies in Option 3 in order to update the SCR for immaterial risks; In Method 1 (paragraph 8.91 to 8.96), the driver for immaterial risks is the BSCR; The BSCR is a combination of different risks but not a good driver to capture the real risk evolution of immaterial risks. Moreover, method 1 is more complex. We would favour method 2 as different exposures for immaterial risks are being used (e.g. volume measures for lapse risk). Method 2 is easier and it is also a better driver for the immaterial risks. |  |
| 8 | 104-106 | | **EIOPA’s supervisory statement on the application of proportionality**  Following EIOPA’s publication of its Supervisory Statement on the application of proportionality, an SCR sub-module is considered immaterial for the purposes of the SCR calculation when its amount is not relevant for the decision-making process or the judgement of the undertaking itself or the supervisory authorities. According to this principle, even if materiality needs to be assessed on a case-by-case basis, EIOPA recommends that materiality is assessed considering the weight of the sub-modules in the total BSCR and that each sub-module subject to this approach should not represent more than 5% of the BSCR or all sub-modules should not represent more than 10% of the BSCR.  EIOPA’s recommendation should be included in the Delegated Regulation. |  |
| 8 | 110 | | **EIOPA´s Advice**  Another approach to enhance proportionality in the framework is to reflect in the legislation in order be binding the content of the EIOPA´s Supervisory Statement on proportionality. |  |
| 8 | **Question to stakeholders** | | **Q8.2 What is your preference with regard to the options on introducing further simplifications to the calculation of the SCR standard formula?**  We do not have a specific preference for any of the options presented. An optimal situation would be a combination of Option 2 (set of simplified calculation of capital requirements for immaterial risks) together with Option 3 (integrated simplified calculation of capital requirements for immaterial risks). |  |
| **9. Group supervision** | | | | | | |
| 9 | 24 | | **Policy Issue 1 – Article 212 of the Solvency II Directive and identification of groups**  Firstly, we do not understand why this is a policy issue if these entities are not considered to be a group pursuant to Article 212 of the Solvency II Directive; All the solo provisions will apply to them. The national competent authority can always include all group-related elements in their supervisory dialogue.  Secondly, EIOPA indicates that insurance and reinsurance undertakings can partly or fully have the same shareholders; All components of the group own funds have to meet the criteria as mentioned in the Directive 2009/138/EC and Regulation 2015/35/EC. Having the same shareholders will only have an impact on the insurer’s solvency position if ancillary capital is recognized where the counterparty is the same shareholder. In any case, this would have to be assessed.  Thirdly, EIOPA refers to having AMSB/management body members in common; The relevant question is whether the AMSB/management body has enough time to act as AMSB and whether it has sufficient independency; This is part of the fit and proper assessment.  Fourthly, EIOPA also refers to have financial links; If the links are too dominant, a risk concentration will emerge which will have to be dealt with according to the current legislation.  If there is no group for accounting or other purposes, EIOPA should not try to create new groups if not deemed necessary. We wonder what would be the policyholders’ interest at stake. |  |
| 9 | 27 | | **Policy Issue 2: Article 213 of the Solvency II – application of group supervision**  EIOPA notes a second policy issue, but it does not provide a quantification. In how many instances was this an issue? |  |
| 9 | 34 | | **Policy Issue 1: – Article 212 of the Solvency II Directive and identification of groups**  EIOPA indicates that no change in Article 212 of the Solvency II Directive and the identification of groups  will not help with current issues as challenges with identification of a group under the current criteria remain.  It is unclear as to how many groups or potential new groups this is deemed to be an issue. The principle-based allows an individual supervisor to cater for an appropriate supervision to each and every group. Moreover, current legislation provides sufficient opportunities for an effective supervision of the solo undertakings, grouping of undertakings and groups. |  |
| 9 | 35 | | Article 212 (1)(c)(ii) does provide sufficient possibility to include entities to be part of a group. |  |
| 9 | 36 | | EIOPA points that the regulatory framework should contain a definition of ‘centralized coordination’ in paragraph (1)(c)(ii) of Article 212; We believe that "*centralized coordination*" does not need to be further defined. If the supervisor is of the opinion that a group is centralized coordinated, it will provide its opinion including the reasoning for that. The alleged group will assess the centralized coordination and it will be input in the supervisory dialogue. A more "rules-based" definition will find sufficient cases where it is deemed to be ambiguous or the situation can be made in such a manner that either a group is formed or not. |  |
| 9 | 37 | | We would advise EIOPA to assess first the principles as laid down in the IFRS standards with respect to the definition of “control” or “significant influence”. An alignment between accounting and Solvency II would result in similar consolidation circles. | ¨ |
| 9 | 39 | | **Policy Issue 2: Article 213 of the Solvency II – application of group supervision**  EIOPA points out that no change in the application of group supervision will not help with current issues and uncertainty regarding the application of group supervision. We query how material the issue highlighted by EIOPA is. |  |
| 9 | 40 | | **Policy Issue 2: Article 213 of the Solvency II Directive and application of group supervision**  EIOPA recommends that supervisory authorities have powers to require their supervised undertakings, to structure in such a way which enables the relevant NSA to exercise the group supervision.  We do not feel it is justified to provide the supervisory authorities with the power to require a legal restructuring of the groups. In our opinion, the Solvency II legislation has sufficient possibilities to allow the exercise of an effective group supervision. |  |
| 9 | 42 | | EIOPA proposes to allow NSAs to require the establishment of an EU holding company or the establishment of an undertaking that exercises centralized coordination and dominant influence. We believe that the option is not proportionate to the scale of the issue mentioned. The creation of an EU holding entity will require many resources and ambiguity. |  |
| 9 | 44 | | **Policy Option 3: Scope of groups**  The scope is not based on accounting considerations, but on legal considerations. The % ownership of shares. IFRS standards do not set such absolute legal boundary but instead it allows the possibility to have dominant influence even if undertaking does hold 20% of voting rights (directly and indirectly) and vice versa. |  |
| 9 | 45 | | If a look through is applied to subsidiaries, all assets and liabilities are in included in the consolidated data. Article 336 of the Delegated Regulation is amended so that the related undertakings are treated at group level in the same way that they are treated at solo level. This means that where there is look-through at solo level, there should be look-through at group level and where there is no look-through at solo level because of the simplification in Article 84(3) of the Delegated Regulation, then there is also no look-through at group level. |  |
| 9 | 46 | | **EIOPA’s Advice on Policy Issue 1: Article 212 of the Solvency II Directive and identification of groups**  We disagree with the proposal to amend Article 212 of the Solvency II Directive to allow further supervisory flexibility. Article 212(1) © (ii) of the Solvency II Directive already provides that a “group” means a group of undertakings that is based on the establishment, contractually or otherwise, of strong and sustainable financial relationships among those undertakings. EIOPA’s tentative to clarify the regulation does not arise from identified issues and the regulation already provides enough flexibility for NSAs to assess whether undertakings are managed on a unified basis.  Definitions should be clear enough to allow undertakings in advance to assess the consequences of business decisions, definitions should also be as consistent as possible with other European regulations, in this context for example with the European Accounting Directive and also with banking and financial conglomerates regulations. Overall, there is no need for further clarification. |  |
| 9 | 47 | | See comments to paragraph 9.37 |  |
| 9 | 48 | | We oppose EIOPA’s advice to provide NSAs the power to restructure groups. The pursued goal is unclear, as NSAs already have the power to consider as a group undertaking acting with a centralised coordination in Article 212 (see comments on §46 & 48).  The structuring of groups should remain a management decision. In general, NSAs should not be empowered to force groups to restructure themselves for the purpose of supervision. Only extreme situations could justify such significant interventions. In these cases, other legal framework conditions such as corporate law must be taken into consideration by NSAs. The legal process must be applicable to the supervised undertakings, which is especially important for groups with undertakings in several jurisdictions.  Providing NSAs the power to require a legal restructuring of the groups seems unjustified and not proportionate. The current framework has sufficient possibilities to be able to exercise effective (group) supervision |  |
| 9 | 49 | | **EIOPA’s Advice on Policy Issue 2: Article 213 of the SII Directive and application of group supervision**  We do not feel it is justified to provide the supervisory authorities the power to require a legal restructuring of the groups. In our opinion, the Solvency II legislation allows the effective exercise of (group) supervision. |  |
| **9.3.2 Definition of Insurance Holding Companies and other challenges** | | | | | |
| 9 | 55 | | **Policy Issue 1: Definition of Holding Companies**  EIOPA points out that Article 212 of the Solvency II Directive does not provide additional explanation of the meaning of 'exclusively or mainly' in the definition of IHC. However, we are not aware of any problems with this definition which is widely used. Could EIOPA state in how many cases this is actually an issue? |  |
| 9 | 56 | | **Policy Issue 2: Article 214(1) of the Solvency II Directive and powers over holdings**  Article 214 of the Solvency II Directive aims at ensuring that at a solo-basis the scope of supervision is not elaborated. Articles 218 and 219 refer to the consolidated group data, which is subject to group supervision; There is no contradiction in our opinion. In practice, the whole group will comply with the centrally set policies, risk appetite and governance, regardless of article 214 (1). |  |
| 9 | 62 | | EIOPA proposes to clarify the term “exclusively” or “mainly” used in the definition of IHC contained in Article 212(2)(f) of the Solvency II Directive.  We cannot see how the mentioned proposal will solve the issue of the mixed financial holding companies (i.e. MAIHC) because only reference is made towards insurance holding companies (i.e. IHC)? |  |
| 9 | 66 | | It is totally unclear why all these powers are needed when analysing the policy issue as described in paragraph 60. We feel that the proposals are not proportionate to the nature and size of the issue described. |  |
| 9 | 67 | | See comments to paragraph 9.62 |  |
| 9 | 68&69 | | **EIOPA’s Advice on Policy Issue 2: Article 214(1) of the Solvency II Directive and powers over holdings**  The possibility for NSAs to request a structural organization of groups should be limited to cases where supervision is clearly obstructed. Such a request is in any other case not justified or proportionate.  The proposed powers are too far going considering e.g. that holding companies are not authorised entities and are not conducting insurance business. Besides, the adoption of the proposed measures towards the holding company could also negatively affect other non-supervised companies belonging to the group, especially if such companies are listed. In addition, the measures available to NSAs should only be used in gradual stages. Significant interventions, such as suspending the exercise of voting rights, restricting distribution or interest payments to shareholders and reduce holdings in insurers or other financial sector entities, should only be allowed in extreme situations. The proposal to allow the transfer of participations is questionable from a legal perspective and could lead to unforeseeable consequences. Other legal framework conditions such as the company law must be taken into consideration by NSAs. The legal process must be applicable to the supervised undertakings which is especially important for groups with undertakings in several jurisdictions.  Furthermore, a decision to temporarily designate another company within a group as responsible to ensure compliance should be left to the group itself. The same effect can also be achieved within the powers of NSAs to request a structural organisation that enables group supervision.  To conclude, it is worth considering that the proposed amendments to Article 214 would break the existing symmetry with other sectorial regulations (see Article 214, paragraph 3, CRD IV and Article 5, paragraph 5, FICOD which contains analogous provisions). |  |
| 9 | 69 | | The proposed additional powers are not proportionate to the issues described. In paragraph 60 there is no real illustration of the issue and why the proposed measures defined are really needed. EIOPA does not indicate either the number of groups where this issue has been spotted. |  |
| **9.3.3 Article 214(2) of the SII Directive – Exclusion from the scope of group supervision** | | | | | |
| 9 | 72 | | Can EIOPA state in how many instances the exclusion of an undertaking from the scope of the group supervision lead to a waiver of the group supervision? We query whether the exclusion is at the discretion of the supervisory authority or not. Moreover, if an exclusion results in no group supervision and this is an issue for the supervisory authority, we doubt that supervisor will grant this exemption. Potential conflicts between national competent authorities should be solved with the mediation of EIOPA but they should not lead to changes to the legislation. |  |
| 9 | 78 | | We query why this is an issue and whether anything did not go well in practice. |  |
| 9 | 90 | | **EIOPA´s Advice on Policy Issue 1: Different practices related to the exclusion of undertakings from the scope of the group**  We query why EIOPA should be consulted on the exclusion from group supervision. It could be an issue between national competent authorities and Member States regarding the structure of a group and jurisdiction where the group is pursuing its business. |  |
| **9.3.4 Supervision of Intragroup transactions (IGTs) and Risk Concentrations (RCs)** | | | |  |
| 9 | 101 | | **Policy Issue 1 – IGTs definition**  Can EIOPA explain in how many cases, the group supervisor was unable to retrieve the information as requested on IGTs. In how many cases did the group deliberately excluded that IGT information considered by EIOPA as a "gap"? |  |
| 9 | 104 | | EIOPA explains that an additional issue relates to the case where a mixed-activity insurance holding company (MAIHC) is the head of a financial conglomerate. In some member states a regulated entity other than an insurance undertaking, for example a bank, can be identified as MAIHC (no explicit provision prevents a regulated financial undertaking from being a MAIHC). In this case intra-group transactions should be monitored on the basis of Article 265 of the Solvency II Directive. EIOPA adds that in some jurisdictions Solvency II IGTs-reporting with a MAIHC have been replaced by FICOD IGTs-reporting which are subject to higher thresholds; EIOPA therefore proposes that the IGTs between the insurance undertakings and the bank to be monitored. The decision to replace Solvency II IGTs reporting by FICOD IGTs-reporting is agreed amongst different sectoral competent supervisory authorities often within the same financial authority. NCAs should be able to deal with an issue arising but we do not see the need to change the legislation to solve potential conflicts between supervisory authorities. If appropriate, EIOPA could revise Chapter II of their guidelines on governance which deal with group governance aspects (in particular Guideline 69 on IGTs). |  |
| 9 | 108 | | **Policy Issue 2 – IGTs and RCs Thresholds**  At present there is a lack of consistency in the application of thresholds for IGTs and RCs. In our opinion there is no need to change the legislation to ensure supervisory convergence regarding the setting of thresholds for IGTS and RCs; It should be based on the risk profile and specific circumstances of any group concerned. If needed, additional guidance could be provided as amending the legislation will not allow dealing with all possible existing group structures and characteristics. |  |
| 9 | 108 | | Moreover, the QRTs on IGTs and RCs are only one tool to understand the risk concentration in an undertaking. An insurer should manage its concentration risk and will describe this where relevant in the RSR. The thresholds are set by the NSAs based on their understanding of the risk properties within the Member State, the interconnectedness between companies and other characteristics. An EU-wide threshold will also have many flaws as any threshold will be too high in one Member State and too low in another, whether relative or absolute threshold. A too low threshold will see too many entries and a too high threshold too few. We query whether EIOPA is able to provide evidence as to where the set-up thresholds lead to an inadequate supervision of IGTS and RCs. In our opinion, the current status quo should be maintained; NSAs should be allowed to set up thresholds for each group for the identification and reporting of significant IGTs, very significant IGTs or IGTs to be reported in any circumstance as well as for significant RCs or RCs to be reported in any case. |  |
| 9 | 118 | | EIOPA proposes that in order to reduce the reporting burden the group supervisor in cooperation with the other supervisory authorities could eventually define separate thresholds for different types of transactions. However, having different thresholds for different entities will be very burdensome to integrate in the IT-systems and processes. |  |
| 9 | 123&124 | | **EIOPA’s Advice on Policy Issue 1 – Definition of IGTs**  Reporting any transactions of this kind could lead to an unduly burden for large groups; We doubt that the requested information would have any meaningful relevance for the supervisory authorities. It should be possible to exclude at least the defined transactions at the outset following a consultation with the group supervisor. For example, a group has set up an integrated management of human resources matters for all undertakings which are part of a group; the management of those activities should be deemed important only in rare cases. |  |
| 9 | 125 | | **EIOPA’s Advice on Policy Issue 2 –IGTs and RCs Thresholds**  In principle we are not against adding additional criteria, however the criteria should have a clear relationship with the risks induced by the possible risk concentration. Another question is whether EIOPA can provide information as to in how many cases did the current set thresholds lead to incorrect supervisory practices, not from a theoretical point of view but actually in practice. The definitions and criteria for thresholds are sufficient. They are clear enough to allow undertakings in advance to assess the consequences of business decisions. Further, definition should be as consistent as possible with other European regulations, in this context for example with the European Accounting Directive. There is no need for further specifications.  Any additional criteria should have a clear relationship with the risks induced by the possible risk concentration. EIOPA does not specify if the current setting of thresholds has in effect led to bad supervision.  For groups operating in both sectors, banking and insurance, and are financial conglomerates as well, reporting of IGT and RC can be a burdensome process if supervisors require reporting under each framework. A harmonised reporting could be considered. |  |
| **9.3.9 Partial Internal Models and Integration Techniques.** | | | | | |
| **9** | **Questions to stakeholders** | | **Q9.1: EIOPA invites all stakeholders to share their experience on the issues discussed above regarding the interlinkages of partial internal models, and integration techniques.**  **In particular to provide EIOPA with information on:**  **Are you using integration techniques 2 to 5 for groups or solo undertakings with major business units? Please provide details**  **What is your experience in using such integration techniques?**  We suggest EIOPA approaches the National Competent Authorities to obtain the requested information from internal model players. |  |
| **9.3.10 Group SCR calculation when using Combination of methods** | | | | | |
| 9 | 261 | | The proposals seem to indicate that EIOPA is of the view that groups using other methods than method 1 are avoiding capital requirements. We disagree and consider method 2 or a combination of methods still to be an appropriate alternative for some groups, e.g. for mutual with limitations on own funds’ availability. Further, other measures than adjustments to Pillar 1 are a better way to address the issues identified and are already present, e.g. through assessments in the group ORSA. EIOPA’s advice to introduce a measure to avoid double-counting of risks is welcome. |  |
| **9.3.11 Group Solvency – Application when using combination of methods** | | | | | |
| 9 | 271&272 | | We oppose EIOPA’s proposal that method 2 can only be applied to legal entities one by one, not to sub-groups. If, e.g., the sub-group is managed on a unified basis but is not a subsidiary to the parent undertaking, diversification between the entities in the sub-group should be allowed for irrespective of whether the consolidation method could be used on the full group. It can also be noted that the same arguments apply as those that lead EIOPA to propose that group requirements are used to include capital requirements from a banking sub-group, i.e. paragraph 9.445. |  |
| 9 | 275 | | Double counting of risks and omission of risks is never acceptable. Also, when using method 2, it must not be required to include double counting in the capital requirement, e.g. by counting both a participation undertaking’s exposure to the equity of a participation and the risk in that participation’s assets and liabilities, i.e. 9.261. |  |
| 9 | 276 | | If there are issues with equivalence in third countries as regards rules on diversification, those issues should be addressed by the supervisory authorities concerned rather than introduce rules that can create unfair disadvantages to groups operating only within EU/EEA. |  |
| 9 | 282 | | There is no need for further clarification. If anything, it should be clarified that method 2 can be allowed to be applied to sub-groups when it has been allowed not to apply method 1 to the whole group. |  |
| 9 | 283 | | We disagree with EIOPA’s view that the transferability of EPIFP needs to be proven to be eligible at group level. EPIFP should continue to be treated as an available own fund item at group level. The economic approach to Solvency II with EPIFP included in own funds cannot be broken down in pieces by requiring companies to prove the possibility to monetize the EPIFP within a certain time. Different supervisory assessments could also lead to an unlevel playing field. |  |
| **9.3.12 Own Funds Requirements for Groups** | | | |  |
| 9 | 296 | | EIOPA seems to indicate a potential issue, but it is unclear whether this has really happened. Did the NSA's currently recognize this issue mentioned in practice? |  |
| 9 | 299 | | The paragraph suggests that NSAs disregard Recital 127 of the Solvency II Directive. Can EIOPA really indicate whether this is the case and how this endangered the interests of the policyholders? |  |
| 9 | 301 | | We do not understand why a clarification is needed. If the group has to comply with the solo requirements as laid down in the various legislative texts and the recital clarifies the solo treatment, then this is also to be included in the group assessment. |  |
| 9 | 308 | | **EIOPA´s Advice – Classification of own-fund items at group level**  We are of the opinion that there is no need to add additional requirements as the sequence of requirements is clear already. If supervisory convergence is the issue, this should be dealt with by means of additional guidelines and not by amending the existing legislation. |  |
| 9 | 311 | | Normally, any winding-up situation exists when there is a breach of the SCR. In that case there is an automatic suspension of any payments. If the 75% of the SCR is breached, there is even a conversion into highest quality of capital. In our opinion, the proposed clarification is not needed. |  |
| 9 | **Question to stakeholders** | | **Q9.3: In light of option 2, stakeholders are invited to share their view on how this option contributes to a consistent policyholders’ protection of related EEA (re)insurance undertakings regardless of the nature of the parent company of the group (group headed by a holding company vs group headed by an insurance or reinsurance company).**  We do not have any issue with Recital 127. |  |
| 9 | **Question to stakeholders** | | **Q9.4: In light of option 3, stakeholders are invited to provide their view on the potential challenges that groups may face to implement this principle**  We do not have any issue with Recital 127. |  |
| **9.3.13 Availability Assessment of Own Funds** | | | | | |
| 9 | 324 | | The group has to calculate the solvency ratio as if it were a single economic entity. Following this principle, the group economic balance sheet is determined. Subsequently the SCR is calculated based on this consolidated data. The next step is to determine the undertaking´s available own funds and the eligible own funds. In this latest step, the availability and fungibility of all components of the own funds is assessed. Restricted own funds of underlying entities are only taken into consideration provided there is a surplus above the diversified contribution to the group SCR. The whole process ensures that components which cannot be used to absorb losses elsewhere in the group are included. This should be sufficient and no change is needed. |  |
| 9 | 325 | | The example provided is very far-fetched. We query to which extent it addresses a real and current issue within a group. Can EIOPA indicate how many underlying entities which have issued subordinated liabilities, have a low diversified SCR in order for the restricted own funds to be eligible for group purposes? |  |
| 9 | 330 | | The inclusion of a notional MCR for MFHC or IHC without adjusting for intragroup transactions will result in onerous outcomes and could even result in the group MCR to be above the group SCR.  The notional SCR / MCR of a MFHC or IHC is calculated based on the “company economic balance sheet”. In this balance sheet the intragroup transactions are not eliminated. Subsidiaries are included based on their adjusted net equity value.  Consider the following group: An IHC has as only as assets participations in the insurers A and B. Assume the following Solvency information:   |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | |  | Own Funds | SCR | MCR | Ratio | MCR/SCR | | Insurer A | 150 | 100 | 35 | 150% | 35% | | Insurer B | 250 | 200 | 90 | 125% | 45% | | Group | 400 | 250 | 125 | 160% | 50% |   The IHC has a total of own funds of 400. The group MCR is based on the sum of the solo MCR. As there is no corridor at the group, the ratio MCR/SCR increases as the diversification benefits is only allowed at SCR level and not MCR.  Consider the impact of the introduction of the notional MCR on the level of the IHC. EIOPA proposed as proxy 35% of the notional SCR.  The notional SCR is based on the company balance sheet of the IHC. In this example, the IHC has only participations as assets. The capital requirement is then based on the equity risk module. As the participations are not listed, the capital requirement is based on the 49% drop in equity prices. In this example that would result in a notional SCR of 196. The resulting notional MCR is 68.6. The total group MCR has become 193.6. The ratio MCR/SCR is now 77.4%.  The ladder of intervention is now very small. The increase of the group MCR based on the notional MCR is solely the result of a double counting because intragroup transactions between the IHC and the remainder of the group where an MCR is calculated is not eliminated. If the own funds of the solo undertakings would be higher, there could be a situation in which the group MCR becomes higher than the group SCR. EIOPA should eliminate the intragroup transactions from the calculations as is normally done for the calculations of the group SCR. |  |
| 9 | 330 | | **Policy Issue 2: The formula for calculating the contribution to group SCR**  There is an issue if the notional SCR is included in the calculation, the treatment of IGT. EIOPA has stated through the Q&A that IGTs are to be considered as part of the diversification effects. This results in an overestimation of the diversification benefits and therefore a lower amount of non-available own funds is included in the eligible own funds at group level. When including a notional of holding companies this will be increased significantly**.** |  |
| 9 | 336 | | **Policy Issue 4: Availability assessment of specific items of the reconciliation reserve: EPIFP**  EPIFPs are the result of a valuation based on economic principles. The best estimate is calculated based on an exit value notion. This suggests that the insurance contracts are transferred to a willing third party. The transfer includes all rights and obligations between the policyholder and the insurer. As a result of the transfer, the third party will also assume the future premiums included cash flows transferred; By a possible sale of an insurer´s portfolio the acquirer will receive the EPIFP included in the future cashflows. |  |
| 9 | **Question to stakeholders** | | **Inclusion of own fund items to cover the contribution of the solo to group SCR (Policy Issue 1)**  **Q9.5: Taking into account that the availability assessment of own fund at group level is a complex issue, EIOPA would like to request feedback from stakeholders on which possible principle-based rules could be considered to reflect more appropriately the effective amount of available own funds at group level.**  **In particular, how could the minimum required quality of own funds, which solo insurers must comply with at all times, be reflected in the availability assessment at group level? (i.e. the question is not querying on the quality of the solo own funds at a given point in time, but how the availability assessment by the group supervisor can take into account the impact of a (potential) transfer of own funds within a group on the composition of solo own funds and on ongoing compliance with solo tiering limits – A*s an illustration, please refer to the case presented on* *the identification of the policy issue, paragraphs 9.325 to 9.327*).**  N/A |  |
| 9 | **Question to stakeholders** | | **Availability assessment at group level and EPIFPs (Policy Issue 4)**  **Q9.6: Which methods/tools would be possibly used to make own funds available within**  **9 months from one undertaking to another when large amounts of EPIFP exist?**  EIOPA considers that certain elements of the reconciliation reserve can be considered as available to cover future losses but that it is neither obvious nor easily proved that they can be transferred within 9 months to absorb losses in another undertaking belonging to the group.  The issue mentioned by EIOPA does not only not exist for the assumption of the EPIFP but also for all other elements when determining the best estimate of the insurance liabilities. The calculation of the risk margin is also based on the direct transfer to a reference undertaking. |  |
| 9 | 347 | | **Inconsistency between Article 330(5) of the Delegated Regulation and Article 222(4) of the Solvency II Directive**  EIOPA should ask first the NSAs how this is being done in practice. Only then it can be concluded whether this as an issue or not. |  |
| 9 | 357 | | **EIOPA’s Advice on Policy Issue 1- Inclusion of own fund items to cover the solo contribution to group SCR (Article 330(5) of the Delegated Regulation)**  We agree with the proposal made by EIOPA not to include any change to the availability assessment under article 330(5) of the Delegated Regulation. |  |
| 9 | 358 | | **EIOPA’s Advice: Policy Issue 2** -**The formula for calculating of the contribution to group SCR**  EIOPA advices to clarify the inclusion of the undertakings to be taken into account in the calculation of the contribution to the group SCR for the purpose of the availability assessment according to Article 330 of the Delegated Regulation.  In our view, EIOPA should also revisit the treatment of IGTs in this calculation especially if the IHC or MFHC are included based on their notional SCR or not; The notional SCR includes the capital to cover IGT positions which will lead to a serious duplication of the capital required to cover the risks. |  |
| **9.3.14 Minority Interest** | | | | | |
| 9 | 381 | | **EIOPA’s Advice on Minority Interest**  We agree that the minority interest is also to be based on the economic perspective. Whether external debts are to be included or not depend on the legal construction with the minority interest i.e. if they are equal (to their proportion) liable for the subordinated debt in a winding up situation the external subordinated debt should be considered (situation 1c) otherwise 1a should apply. |  |
| 9 | **Questions to Stakeholders** | | **Minority Interest**  **Q9.7: EIOPA invites all stakeholders to share their experience on the issues discussed above regarding the clarification of the definition of the item Minority interest in Solvency II and the approach to be followed for its calculation. In particular, EIOPA is interested in input from stakeholders to assess if the calculation of the minority interest should include of external subordinated debts.**  See our comments to paragraph 9.381 |  |
| **9.3.15** **Minimum Consolidated Group SCR** | | | | | |
| 9 | 388 | | **Policy issue 1 -Lack of clarity and alignment of the scope of undertakings included in the minimum consolidated group SCR**  EIOPA states that third country (re-)insurers are an important feature, however the guidance on how to include a non-equivalent third country (re-)insurer in the group consolidation is not assessed. More guidance is needed as to how the Solvency II rules should apply to all balance sheet items of the third country (re-)insurer and whether it is appropriate everywhere. |  |
| 9 | 388 | | The Solvency II legislation is applicable to any insurance company with a seat in the European Union or any insurance entity willing to sell insurance products to consumers in the European Union. In addition, the Solvency II framework presents requirements for insurers in equivalent and non-equivalent third countries within a group. If equivalence is granted, the local rules may apply and be included in the Solvency position of the group. However, if a third country is deemed to be non-equivalent, the group has to apply the Solvency II legislation towards that non-equivalent third country. For some risk types, appropriate changes are included to accommodate the different non-EU situations (i.e. natural catastrophe risk sub-modules). Some risk types are calibrated with general market data, such as interest rate risk, spread risk, FX risk. However, for certain elements the inclusion of non-equivalent third country subsidiaries in the group can result in an onerous and inappropriate treatment.  For example, consider a non-equivalent third country with a credit quality step (CQS) below 3. An insurance entity in that third country has a reinsurance contract with a local reinsurer located in the same third country. The local prudential legislation is applied and the insurer is solvent based on the local legislation, but which is not deemed to be equivalent. The issues arise once this non-equivalent third country entity is consolidated.  According to Article 211 (2)(c), an insurer located in the European Union should ensure that the risk mitigation is effective. However, this is not fully the case when the rating/CQS is below 3. From this perspective this can be justified.  If we consider again the above example, If the non-equivalent third country insurer is aggregated as part of the group, the group has to apply all the Solvency II requirements to this subsidiary including Article 211. Suddenly, the risk mitigation instrument which is locally deemed to be effective and working in practice, is not effective anymore. This fact has an enormous impact on the group economic balance sheet and the capital requirements.  The resulting impact is very negative, is not intuitive, provide incorrect management incentives and has also a very negative impact on the willingness of groups investing outside the European Union in non-equivalent third countries and/or countries which have a temporary equivalence. |  |
| 9 | 389 | | **Policy issue 2: Change of calculation method for minimum consolidated group SCR**  The European Commission had echoed the industry concerns regarding the approach to calculate the minimum consolidated group SCR (i.e. “group MCR”) given that for the MCR at group level there is not a corridor. As a result, for some groups the group MCR is close (or even equal) to the group SCR, and the group MCR ratio can be lower than or very close to the group SCR ratio. Therefore, there may be cases where a group breaches its group MCR before its group SCR. In such cases, the group MCR limits the diversification benefits that groups may recognize in their capital requirements. |  |
| 9 | 390 | | When considering the underestimation, EIOPA should also consider the impact of not having a corridor at group level. This results in many cases in a higher MCR/SCR ratio than 45%. |  |
| 9 | 391 | | If the notional SCR is to be taken into consideration, the issue of including IGTs in the calculation rather than deleting them for group calculation purposes will overestimate the calculation for groups significantly. The notional SCR determined for IHC or MFHC will include a lot of IGT especially with respect to the subsidiaries. The subsequent group SCR will encompass duplications. |  |
| 9 | 400 | | **EIOPA´s Advice**  We do not agree with EIOPA’s advice to maintain the current methodology for the calculation the minimum consolidated group SCR (i.e. “group MCR”). |  |
| 9 | AMICE’s Proposal | | Observable difference in requirements not based on risk exposure The strict application of the Regulation may lead to the existence of different capital requirements which depend on the structure of the insurance group without being the result of different risk exposures.  To illustrate this point, we provide a simplistic example[[2]](#footnote-3) :  Let us consider 2 scenarios for the same insurance group G with a relatively close risk exposure in both cases.  Case N°1:  The participating undertaking (A) does not carry on any insurance business and owns 100% of two insurance companies A1 and A2 which have the following characteristics:  SCRsolo(A1)=250 SCRsolo(A2)=320  MCRsolo (A1)=100 MCRsolo(A2)=110  Ratio(A1) MCR/SCR = 40% Ratio(A2) MCR/SCR = 34%   * Minimum capital requirement for legal entity A at solo level:   + MCRsolo(A) = 0 (A not being considered as an insurance undertaking) * Minimum capital requirement at Group G level consolidated with A as the consolidating undertaking:   + MCRconso(A) = 210 (100%xMCRsolo(A1) + 100%xMCRsolo(A2))   The MCR/SCR ratio at Group level G is thus around 37%[[3]](#footnote-4)  Case N°2:  The participating undertaking (A) has a relatively low insurance activity and owns 100% of two insurance companies A1 and A2 which have the following characteristics:  SCRsolo(A1)=250 SCRsolo(A2)=320  MCRsolo (A1)=100 MCRsolo(A2)=110  FPsolo(A1)=500 FPsolo(A2) 640  Ratio(A1) MCR/SCR = 40% Ratio(A2) MCR/SCR= 34%  NB: the eligible own funds (OF) of A1 and A2 have been set on the assumption of a solvency ratio of 200%.  In this case, undertaking A is considered to be an insurance undertaking and is subject to the Solvency II regime.   * Solvency Capital Requirement of insurance legal entity A at solo level:   + SCRsolo(A)= 266 (corresponding approximately to the sum of an SCR equal to 15 on its own insurance activities and 251 on the type 2 equity risk related to the holding of these two participations where 251 =22%x(500+640)). For simplicity, no diversification effects are taken into account in the example for the SCR calculation of undertaking A. * Minimum capital requirement for insurance legal entity A at solo level:   + MCRsolo(A)= 66 (for simplicity equals to the floor of 25% of the solo SCR, also due to the preponderance of the type 2 equity SCR) * Minimum capital requirement at the level of the consolidated G group:   + MCRconso(A)= 276 (MCRsolo(A) + 100%xMCRsolo(A1) + 100%xMCRsolo(A2))   The MCR/SCR ratio at Group level G is thus around 47%.  The difference between the two scenarios is 66, which corresponds to the MCR of A. However, the main part of this MCR is composed of the market SCRs of both entities A1 and A2. This means that the requirements relating to the ownership of these two related undertakings are taken into account more than once at group level. The MCRconso(A) thus appears overestimated.  In summary, the two tables below clearly show that:  - In Case 1, the Group's vision is aligned with those of the solo companies. The level of the MCR/SCR ratio corresponds to the weighted average ratio of solos  - In Case 2, the Group's vision is misaligned with that of solo companies. The level of the MCR/SCR ratio is this time higher than the ratios of each of the solo companies.     Proposed Amendment to Article 230(2) Solvency II Directive | In order to correct this bias, the participating entity's solo MCR could be recalculated as part of the group MCR calculation without taking into account its SCR equity type 2 resulting from its holdings in insurance undertakings A1 and A2.  In our example, the proposed approach would result in the following calculation:   * Minimum capital requirement for insurance legal entity A at solo level:   + MCRsolo(A)= 5 (taking into account the removal of SCR type 2 equities and assuming that the solo MCR represents 35% of the Solo SCR, i. e. 35% x 15)   NB: This adjustment is only used for the purpose of calculating the Group MCR   * Minimum capital requirement at consolidated group level with A as consolidating company:   + MCRconso(A) = 215 (MCRsolo(A) + 100% MCRsolo(A1) + 100%MCRsolo (A2))   This proposal would simply amend Article 230(2)(a) of the Solvency II Directive by clarifying that the minimum capital requirement for calculating the group Solvency Capital Requirement of the participating insurance or reinsurance undertaking as set out in Article 129 of the Solvency II Directive should not take into account the market risk relating to holdings in related insurance and reinsurance undertakings.  Finally, the bias identified in this paper can also lead to an additional disadvantage. Indeed, the two previous cases showed that the MCR/SCR ratio at group level was higher when the participating company carries out a low level of insurance activity without the exposure to risk being significantly different (47% versus 36%). This situation is in fact amplified for insurance groups that benefit from a more comfortable solvency ratio thus limiting, at least in appearance, the scale of intervention of these groups when the SCR is breached at group level.  This result appears counter-intuitive and rather unjustified because a group with a higher solvency ratio should benefit from a broader scale of supervisory intervention.  This increase in the MCR/SCR ratio according to the solvency ratio is illustrated in the graph below (blue line). This also illustrates that the proposed solution would have the advantage of correcting this second bias (red line)    Graph 1 : description of the evolution of the MCR/SCR ratio at group level according to the current regulatory approach (blue line) and the proposed approach (red line). |  |
| **9.3.16 Inclusion of Other Financial Sectors (OFS)** | | | | | |
| 9 | 441 | | **Solvency II and the interactions with Directive 2002/87/EC (FICOD) and any other issues identified with Other Financial Sectors (OFS) – EIOPA’s Advice: Policy Issue 1: Inclusion of related undertakings in OFS.**  In our opinion there is no need to change the Solvency II Directive as there is no doubt that Article 329 applies regardless of which method is used. We query whether this issue mentioned by EIOPA has also seen in practice. |  |
| 9 | 442 | | We agree with the proposal to require groups to allocate into the relevant Solvency II tiers, on a high-level and only for specific, clearly identified own-fund items of undertakings in OFS such as subordinated debt and similar, when it is practicable and the own-fund items materially affect the amount of group own funds. However, it is unclear whether the elements mentioned by EIOPA are restricted to the subordinated liabilities or not. If more elements are recognized, there should be a consideration of the differences in the balance sheet according to sectoral rules and the economic perspective of Solvency II. |  |
| 9 | 444 | | EIOPA indicates that subordinated debt instruments, deferred tax assets which are included in sectoral own funds and any non-distributable reserve in excess of sectoral capital requirements are by default not included in the group solvency; “In excess” should mean that these elements can cover the existing sectoral capital requirements and only if they have a surplus, this cannot be used. |  |
| 9 | 445 | | **EIOPA’s Advice on Policy Issue 4: Inclusion of own funds and capital requirements subject to sectoral rules when OFS entities form a group**  We agree with EIOPA’s proposal to clarify in Articles 329, 335 and 336 of the Delegated Regulation so that when related undertakings in OFS form a group subject to sectoral group supervision, group own funds and group capital requirements that are calculated according to sectoral rules should contribute to the group solvency calculation instead of the sum of the capital requirement and own funds of each individual undertaking. |  |
| 9 | 446 | | **EIOPA’s Advice on Policy Issue 5: Inclusion of capital requirements from credit institutions, investment firms and financial institutions**  We agree with EIOPA advice to include the answer to Q&A 1344 in the Solvency II regulation. This Q&A clarifies that the same capital requirements for related credit institutions, investment firms and financial institutions, i.e. including buffers and add-ons, should be used in the Solvency II calculation as in the supplementary capital adequacy calculation for a financial conglomerate. |  |
| **9.3.17 Application of Article 228 of the Solvency II Directive** | | | | | |
| 9 | 466 | | As a result of EIOPA´s advice to delete Article 228 of Solvency II Directive, a related credit institution, investment firm and financial institution could only be included using method 1 or method 2 of Solvency II. Such treatment would result in a harmonised treatment of such participations. Article 68(3) of the Delegated Regulation should be amended accordingly.  By deleting the Article 228 of the Solvency II Directive, the FICOD Directive would require undertakings to calculate their group capital requirements according to both the FICOD and the Solvency II Directive provided the results of the calculations vary. EIOPA has presented the issue in a very minimal manner and it is unclear whether the issue described has a real negative impact in practice. We would ask EIOPA to provide clarification on which issues have arisen because of the ambiguity.  We do not feel that supervisory convergence issues should be solved by amending the legislation. Each group is unique and therefore the Group Supervision should be tailored- made to its unique characteristics. Whether all the criteria are satisfied or not can be assessed in the dialogue between the group supervisor and the group itself. |  |
| **9.3.18 Application of Article 40 of the Solvency II Directive (definition of the AMSB for groups); and Mutatis Mutandis under Article 246 of Solvency II Directive** | | | | | |
| 9 | 469 | | EIOPA points out that Article 246 of the Solvency II Directive imposes the mutatis mutandis application by insurance groups of the requirements laid down in Articles 41 to 50 of the Directive (which are applicable to solo entities), but it does not explicitly refer to Article 40 (responsibility of the AMSB of insurance and reinsurance undertakings).  In order to have an adequate system of governance in place, the AMSB is involved. Implicitly, Article 40 of the Solvency II Directive has to be complied with in order to be able to meet the requirements of Articles 41-50 of the Directive. |  |
| 9 | 500 | | We do not agree with the need to amend Article 40 of the Solvency II Directive to ensure that it applies to insurance groups; A statement indicating that the AMSB of the parent (re)insurance undertaking at top of the group would be responsible for the compliance with all group requirements would not be an issue. However, if the group supervisor is granted with the power to designate a different company of the group or a specific company in the case of a horizontal group (where the parent company is not clearly identifiable), this should explicitly do in cooperation with the group itself. The outcome should be to mutual consent. |  |
| 9 | 501 | | We think it is not necessary to define a system of governance. If there are any issues in practice, the group supervisor should deal with the issue as part of the supervisory dialogue. Any solution can be tailor-made to the unique characteristics and the risk profile of the group.  In particular, extending the proposed obligations (such as fit & proper requirements, data reporting, enactment of policies) to all entities within the group seems unduly especially with reference to non-supervised entities, which would be then burdened with additional compliance costs compared to their direct competitors that are not controlled or participated by a supervised entity. |  |
| **11. Macroprudential policy** | | | | | | |
| 11 | 31 – 33 | | General messages  1.**Traditional insurance carries very limited systemic risk,** therefore the need for macroprudential regulation is low. Insurers with a traditional risk profile and SMEs should be exempted from additional macroprudential supervision.  2. **Solvency II is a balanced framework** for prudential supervision **enhancing good risk management and disclosure**. The existing Solvency II micro prudential regulation is an excellent framework for a prudent risk management and covers many macroprudential issues as well. Current instruments should be used as much as possible. Moreover, some of the symptoms of a systemic risk crisis, i.e. lapse risk, spread risk or interest rate risk, are already taken into account in Solvency II and the Solvency II LTGA measures are temporary measures that provide more time to recover from stress events. Systemic risk supervision should not be exercised with excessive short-term biases.  3. **EIOPA should account for the various analysis on macro-prudential supervision carried out by ESRB** and IAIS and the costs associated by maintaining different standards.  4. **Areas for improvement are the management and reporting of liquidity risk**. However, this should not lead to new requirements in the reporting area. The information already available in the existing QRTs should be analysed thoroughly before considering any additional information collection.  5. The **ORSA should remain an own risk and solvency assessment** and should remain governed by companies, the supervisory review process already allows discussion about macroprudential perspectives.  6. **Additional macroprudential regulation should be in place to prevent situations of major crisis only**. Moreover, macroprudential regulation tools should be dormant when no crisis is developing. A functional financial market needs to be volatile, and Solvency II has been designed to cope with that volatility.  7. **EIOPA Supervisory convergence plan needs to be taken further before introducing new requirements**. Most NCAs can prevent any macro-economic like crisis provided they have up to date tools and knowledge.  8. **Any macroprudential tools should be applied in a proportionate manner** and taking into account the risk the tool intends to mitigate and its probability of occurrence |  |
| **Capital surcharge for systemic risk** | | | | | | |
| 11 | 56 | | Capital surcharge for systemic risk is not needed because Solvency II is already targeting a 1-in-200 capital regime. This target is already enhanced by additional capital buffers following the risk appetites of groups/insurers. This is again part of the dialogue with the supervisory authorities. |  |
| 11 | 57 | | EIOPA already mentioned the fact that insurers are not generating systemic risk in general. The calibration of the SCR standard formula is already based on a 1-in-200-year event. There is no need for an increased level of prudence.  The Solvency II calculations are based on an economic valuation and economic perspective. This already implies, that in worsening the market environment, the valuation is negatively affected. This would already have an impact on the own funds and on the need to address it by insurers. Basically, the economic perspective implicitly increases the need for additional loss absorbency. Economic parameters influence the valuation while this does not necessarily imply a cash outflow. An increased spread result in lower valuation of a bond, but the cash flows remains the same. This negative impact on the own funds has to be absorbed by the (re-)insurer, because the (re-)insurer has to maintain their ratio above their internal limits. Therefore, in an economic down turn, (re-)insurers increase their own funds to absorb the impact of unrealized losses on these exposures regardless whether these will be recycled as unrealized gains, because of the maturing of these exposures |  |
| 11 | 59 | | Capital is not an appropriate safeguard for systemic risk. The surcharge would increase the cost for insurers. Depending how these costs are absorbed by the insurers, the policyholders would be negatively affected. The process of setting a surcharge would be very intense; Supervisors and insurers would be engaged in many (legal) discussions, because the setting of a surcharge would provide an indication of emerging risks, whether justified or not. This would have a profound effect on the market in general, including investors having interests in insurers. It would also have an impact on the ability of insurers to access the capital market and issuing subordinated debt instruments.  Unlike the banking sector, the additional safeguards would not lead to significant effects in lowering funding costs as insurers typically have very limited subordinated loans and/or other debt instruments. Higher capital requirements may even decrease financial stability, as the notional solvency ratios of all companies decrease and the threshold for a crisis with spill over effects is triggered earlier |  |
| **11.4.2. Concentration thresholds** | | | | | | |
| 11 | 79-89 | | This tool should not be considered further as it goes against the principles of the Solvency II Directive where no localization requirements exist; If thresholds were to be considered, this would be applicable to any additional exposures.  Solvency II already includes market concentration risk as part of the SCR calculations. Thus, if there is concentration on a single name exposure, this will result in higher capital requirements. Additionally, insurers are required to diversify their exposures according to the prudent person principle and this is being assessed by the supervisory authorities as part of the supervisory review process. **There is no need for additional thresholds.**    **Thresholds on derivatives** will impede the insurers’ availability to mitigate market risk. Moreover, the requirement for central clearing makes this assumed threshold unnecessary.    Defining **soft or hard thresholds** for government bond and related exposures would impede the ALM process of many insurers. Historically and due to legal reasons, insurers have invested in government exposures of the country were the insurance obligations are located. Governmental exposures are an ideal investment as they are normally very liquid and have a very low risk of default, therefore it protects the interest of policyholders. |  |
| 11 | **Question to stakeholders** | | **Q11.2**: **What factors should be taken into account by NSAs when setting soft thresholds at market-wide level?**  EIOPA should refrain from defining soft thresholds. This tool impedes on one of the principles of the Solvency II Directive which indicates in its Recital 72 that “*Member States should not require insurance or reinsurance undertakings to invest their assets in particular categories of assets, as such a requirement could be incompatible with the liberalisation of capital movements provided for in Article 56 of the Treaty*”. Thresholds would impede on this principle. |  |
| **11.4.3. Expand the use of the ORSA to include the macroprudential perspective** | | | | | | |
| 11 | 96-99 | | **EIOPA’s Advice**  EIOPA proposes to modify Article 45 of the Solvency II Directive to explicitly refer to the need to take the macroprudential perspective into account. However, EIOPA has already at its disposal the Stress Test exercises. This tool appears to be more efficient than an “enhanced ORSA” as they assess the resilience of large groups to adverse market developments. Nevertheless, we think that an extension of stress tests to the entire market is not relevant. Only companies that have a potential systemic risk activity should be concerned.  The ORSA should remain the tool of the insurer and not a tool of the macroprudential supervisory authorities. The relationship between the insurer and the supervisor as part of the supervisory review process is crucial. If from different sources a macroprudential issue emerges for the distinct insurer, the competent supervisory authority will discuss it with the (re-)insurer. If needed, the supervisory authority will assess whether the risk existed or would be very remote and would communicate this towards the macroprudential supervisory authorities.    The ORSA is a management tool to assess the insurer’s vulnerabilities. If the supervisory authorities are of the opinion that certain developments or macroprudential issues are not being addressed, they will discuss this with the insurer’s AMSB. Following that dialogue some parts of the ORSA may have to be re-done, additional activities may have to be performed and some additional mitigating measures may have to be undertaken; however, the dialogue with the supervisory authorities should not lead to additional assessments or further stress scenarios being requested. The insurers’ and NCAs’ dialogue will establish a common understanding of the potential issues and how the (re-) insurers will be dealing with these concerns. Any subsequent measures deemed appropriate should be proportionate to the exposure to the macroprudential issues taking into account the risk profile, forward looking projections and other risk limits and mitigating arrangements already in place. |  |
| 11 | **Question to stakeholders** | | **Q11.3: How to ensure that the relevant macroprudential information from the ORSA reports of undertakings can be extracted and used at national level for macroprudential purposes?**  In order to enhance the ORSA, the macroprudential authorities could present an opinion at a distinct point in time where it would describe their potential macroprudential worries / issues and their expectation that the individual insurers would assess those in their ORSAs or other exercises, if appropriate. Insurers could then communicate to their supervisory authority the relevance of the issues spotted, if any and whether any additional assessments or actions would be undertaken or not explaining the reasons for each decision.    The ESRB indicated that the ORSA and risk management requirements could be expanded to require the management of insurers to take explicit account of certain macroprudential risks, topics and trends. The ESRB added that insurers could also be encouraged to reflect on the consequences of their own decisions on the market, including when developing contingency strategies in the event that markets were to be characterized by diminished liquidity or reduced availability of hedging. EIOPA could include this process in their guidelines on the ORSA and on the supervisory review process. |  |
| **11.4.4. Expand the prudent person principle to take into account macroprudential concerns** | | | | | | |
| 11 | 101 | | EIOPA states that one of the objectives of the “enhanced PPP” is to avoid “excessive concentrations”. Article 260 of the Solvency II Delegated Regulation states that the actions to be taken by the insurer to identify relevant sources of concentration risk should ensure that they remain within the established limits and actions to analyse possible risks of contagion between concentrated exposures. Before any additional tooling is introduced, EIOPA should assess how this requirement has been implemented and whether it works in practice. Any introduction of new instruments should be avoided if it duplicates existing requirements. Calibrating the prudent person principle could lead to collective behaviour and may therefore be counterproductive in the context of systemic risk regulation. |  |
| 11 | 106-108 | | **EIOPA’s Advice**  We do not believe that an amendment to Article 132 of the Solvency II Directive is needed. We advise to follow the ESRB’s approach by which the enhancement of the PPP is included in a more principle-based manner; According to the ESRB, the prudent person principle could be extended “*by incentivizing insurers to explicitly take into account the behaviour of other market participants, macroprudential risks and market trends when analyzing the diversification and liquidity of their own investment portfolios*. *This would require supervisors to publish information about aggregate exposures and trends and develop guidance, which should be considered by the insurer*.” |  |
| **11.4.5. Pre-emptive recovery and resolution planning** | | | | | | |
| 11 | **Question to stakeholders?** | | **Q11.4: What are the relevant factors to be taken into account to determine the scope of undertakings subject to SRMPs?**  Some criteria to be taken into account can be the following:  1) relative importance for the European Union and Member states;  2) interconnectedness (internally and externally), however not all relations are risky. This would imply that a reference should be made to net risk;  3) ability to absorb volatility; and  4) level of competitiveness in the market (niche-player, number of insurers in the market, etc.). |  |
| **11.4.7 Liquidity risk management planning and reporting** | | | | |
| 11 | 130 | | The elements mentioned by EIOPA are already part of the current practices of undertakings around liquidity risk management. This is also mentioned in guidelines 18 and 26 from EIOPA Guidelines on Governance and Articles 259 and 260 of the Solvency II Delegated regulation. |  |
| 11 | **Question to stakeholders** | | **Q11.5: What are the relevant factors to be taken into account to determine the scope of undertakings subject to LRMPs?**  In our opinion, additional tooling is not necessary, as these are already envisaged in the current Solvency legislation. EIOPA could revisit their guidance on liquidity risk management, if deemed necessary. |  |
| **11.4.8 Temporary freeze on redemption rights** | | | | |
| 11 | **Question to stakeholders** | | **Q11.6 What are the relevant factors to be taken into account to define the term “exceptional circumstances”?**  “Exceptional circumstances” should refer to the unlikely event of massive lapses, which imply forced sales of non-liquid assets. Within this channel, a stressed situation of insurance market could be transmitted to the overall financial system, with a consequent increase of market instability.  In our view, the power of supervisors to temporarily freeze redemption rights is an important tool because it would address the extremely remote risk of mass surrender, preserving value and potentially preventing the need to use more drastic measures within the resolution toolkit. Hence, it could prevent the unequal treatment of customers who surrender their policy in a crisis and those who do not. Although mass lapses are extremely unlikely in practice, such powers would create an absolute limit to insurers’ exposure to very significant forced “fire sales” of assets and contagion. However, supervisors must be very cautious in reverting to the power to freeze policyholders’ redemption rights, also after the definition of "exceptional circumstances": if activated arbitrarily, a temporary freeze would severely deteriorate policyholders’ market confidence and could be very difficult to restore a market functioning. |  |
| **11.4.9. Other measures – Enhancing the reporting framework from a macroprudential point of view** | | | | |
| 11 | 166 | | **Market-wide liquidity stresses**  A large amount of data is already available to the supervisory authorities. In particular, the collected data enables EIOPA to monitor and assess market developments and to inform the other European supervisory authorities and the European Systemic Risk Board (ESRB) about potential risks and vulnerabilities. We see no evidence of crucial data missing from the submissions to the supervisory authority. Moreover, S.13.01 and S.18.01 templates could be the basis for a liquidity analysis. And, when relevant, NSAs may provide expertise on specific characteristics in their markets.  With respect to the assessment of the surrender options, EIOPA has also to consider the fact that policyholders are normally not directly surrendering their insurance policies on the occurrence of a sudden event. Policyholders will wait to see whether the event last longer, is permanent or is deemed to be an incident. The policyholder retention assumption is key. Another element to consider is the availability of alternative investment opportunities for policyholders including the possibility to acquire again the insurance cover needed to enhance the long-term goals of that policyholder. |  |
| 11 | 168 | | **Under-reserving**  The insurance market in Europe is very much based on local legislation and fiscal rules. A market-wide under-reserving can only be assessed at a Member State level unless the cross-border activity through branches is significant. European wide conclusions would be difficult or unable to be drawn in an effective manner. Macro-wide under reserving, if it exists at all, is an issue to be dealt with by the local supervisor. Only the national supervisory authorities would have a view as to whether premiums are too low and/or best estimates are not sufficient and would act accordingly to remediate the situation.  We fully disagree with EIOPA’s statement that the variation analysis templates are not granular enough to allow supervisors to detect problematic reserving. We doubt that an enhanced monitoring against market-wide under-reserving will be achieved with a too-granular data request as put forward by EIOPA; A simple run-off analysis per line of business is sufficient. |  |
| 1. **Other topics of the review / 14.1 Other transitionals** | | | | | | |
| 14 | 37 | | **EIOPA’s Advice**  We support EIOPA’s advice not to change the transitional provision of Article 308b (15) of Solvency II as the transitional is no longer meaningful because Member States will no longer make use of it by 31 December 2022. |  |
| **Annex 2.9 - Calibration of the risk correction for corporate bonds under Option 1** | | | | | | |
| A | 91 | | In the table, EIOPA dismisses cash and all of the possible sub categories into use for the entity specific approach. However, these should only be dismissed if there is no spread included and not simply because of their categorisation. |  |
| A | 96 | | It is unclear how EIOPA has come to the conclusion that the average spread should be 50%. We wonder whether this is consistent with the Solvency II Directive. The papers mentioned by EIOPA seem clearly to indicate that there is no positive correlation between the spread development and the default rates. There is only a positive correlation with spreads which have migrated downwards. This has also been seen during the credit crises in the last decade. Also, during these crises, the default rates of some investment categories did not match with the assumption made by EIOPA. For example, mortgage loans, mortgage securitisations and covered bonds did behave very well in the Netherlands and no such defaults were observed in the market. Some would argue that government intervention had something to do with this behaviour, however this is difficult to prove. In all the other calibrations the government intervention was not seen as an adjustment and even in the sectors where they have not been any government intervention, the default rates were significantly lower than the ones assumed by EIOPA. |  |
| A | 98 | | EIOPA points out that it is further assumed that there is a difference of 10% between the risk corrections of any two ascending credit quality classes. We would ask EIOPA to provide more insights as to the underlying assumption. |  |
| A | 101 | | From the analysis in the next paragraphs we cannot observe any real back test with actual default rates in the various identified categories. In our opinion this should be done in order to calibrate the RC. Furthermore, the calibration should not only be assessed in the 2016-2018 period but also in times of real stress. |  |
| **Annex 3.1- Best estimate** | | | | | | |
| 1. **Homogeneous risk groups (HRG)** | | | | | | |
| Annex 3.1 | **Questions to stakeholders** | | **Q3.6: Do you consider a unique definition of homogenous risk groups for calculation purposes? (e.g. cash flows projections, technical hypothesis calibration etc.)**  In life business, the risk groups for the technical assumptions may not be the same as the ones for the cashflow projections. For example, for the projection of future discretionary benefits, a different group will have to be considered as the HRG should encompass all policies which have as underlying asset the same fund.  For the assumption on lapses, a different risk group will have to be considered because the fund is not an HRG for the lapse assumption. **It is therefore not possible to have the same risk groups for all cases related to the calculation of the best estimate,** if this what EIOPA means by a unique definition of HRG. The definition of HRG is the same for the best estimate but when the definition of HRG is applied, different risk groups arise depending on the type calculation (e.g. for the financial assumptions or the technical assumptions different groups may be used). In life business a single HRG for all possible calculations is not possible whereas in non-life the risk groups are the same for the different calculations; |  |
| Annex 3.1 | **Questions to stakeholders** | | **Q3.7: Considering Life business: Do you consider homogeneous risk groups to be the model points used to reduce run-time of stochastic modelling? If the answer is “No”, please elaborate it.**  For the calculation of the best estimate firms consider model points which are already the homogeneous risk groups (i.e. HRG); The discretion EIOPA is referring to and the possibility of further reducing model points is not clear. Insurers use the same HRG for the calculation of the best estimate and for reporting purposes. |  |
| Annex 3.1 | **Question to stakeholders** | | **Q3.8 Do you consider for reporting purposes the same homogeneous risk groups used for best estimate valuation? And for EPIFP calculation? If the answer is “No”, please elaborate it.**  An insurer in general assesses the individual policies and it groups these into homogenous risk groups and these in turn are aggregated into Lines of Business. Depending on the kind of assumptions these are set at any of the described different levels. For example, although many life contracts are valued at individual level by the actuarial systems, the mortality table is set at a product level or HRG level. For reporting purposes, the level of the Lines of Business is used, for the best estimate this ranges from any of the three levels depending on the characteristics of the insurance product. For example, for medical expense the HRG and Lob can be the same. The same applies to the EPIFP. It also differs between Life/Non-Life/Health, 1-year contract or multiple year contract, etc. The answer differs also considering the use of proxies when determining the best estimate or whether deterministic or stochastic methods are applied. |  |
| **3. Contract boundaries** | | | | | | |
| Annex 3.1 | General comments | | **General comments – Contract Boundaries**  Insurance products, product features and policyholder behavior, market expectations and fiscal legislation across Europe are reflecting the differences in the underlying legislation and specifics of the various markets. Therefore, the concept of the contract boundary and other features of the best estimate should be principle based and not rules based. Additional guidelines are really only needed if there is a recognised issue existing in the majority of the Member States and which, if not resolved, would seriously endanger the level playing field and movement of goods, products, capital and persons across the European Union. |  |
| Annex 3.1 | **Questions to stakeholders** | | **Q3.9: Do you consider that a 0% minimum guaranteed interest rate or a partial/full capital guarantee have a discernible effect on the economics of the contract (Yes - No - Depends on the contract, economic situation and/or other products available to policyholders)? In any case, please elaborate the answer.**  We agree that a 0% minimum guaranteed interest rate has a discernible effect on the economics of the contract given the low interest rate environment. As the interest rates go down the value will even go lower. |  |
| **5. Expenses** | | | | | | |
| A | 220 | | **Investment management expenses**  EIOPA proposes to consider not only management expenses from assets linked to technical provisions but also assets covering the SCR. However, Article 78 of the Solvency II Directive requires to include all expenses incurred in servicing insurance and reinsurance obligations. The investment management expenses of assets covering the undertaking’s SCR are not required “to pursue insurance business”. |  |
| **Annex 7.1 – RSR content proposal** | | | | | | |
| A | 241 | | General comments  As indicated in our previous comments, we welcome EIOPA’s statement that the RSR can be simplified and that duplications and overlaps within the RSR and between the RSR and other supervisory reports should be avoided. However, we think they lead to further divergence between the SFCR and RSR reports, generally. We oppose this development; We see many benefits in maintaining the same structures and content - but more in-depth in the RSR - in the SFCR and RSR; there are benefits in maintaining the same/similar structures when building up and handling the production of the reports and the writing process. The RSR should be revised and its structure should be changed in a manner consistent with the proposals for the new SFCR structure.  The EIOPA´s decision to denominate certain sections of the RSR as static information should not be done in isolation and without considering the frequency by which the RSR is being submitted to the national competent authorities. Firms who send their RSR reports on a 3-year basis have to inform their supervisory authority about any material changes that have occurred during the year. We do not see the added-value of developing a proposal on a minimum frequency for the submission of the full information in case material changes are reported. |  |
| **EIOPA’s Impact Assessment** | | | | | |
| EIOPA’s Impact Assessment | Chapter 2 (page 55/56): | | AMICE disagrees with the way the impact assessment on the phasing out of the DBER has been carried out by EIOPA:  Firstly, having the choice between the DBER and the LTEI does not add complexity to the Solvency II framework. Besides, EIOPA’s proposal will create more complexity and unnecessary burden to the undertaking with the approved use of the DBER (see comments on chapter 2 paragraph 941 in EIOPA-CP-19-006\_comments\_template\_CP).  Then, as mentioned above, the criteria are different between these two measures. Unlike the DBER, the LTEI set some limits such as:   * The Article 171a-1(d) requires that the technical provisions covered by the assigned portfolio can only represent a part of the total technical provisions of the insurer and a limit of half the balance sheet is set in Recital 26. * the sub-set of equity investments qualifying for LTEI can consist only of equities that are listed in the EEA or of unlisted equities of companies that have their head offices in countries that are members of the EEA.   These limits will reduce the undertaking´s Solvency II ratio and this impact should therefore be taken into account before proposing any phasing-out of the DBER.  Finally, we wonder how any phasing-out of the DBER will increase the effectiveness of the supervision. |  |

1. *Source :* https://www.edhec.edu/sites/www.edhec-portail.pprod.net/files/170321-1\_limpact\_de\_la\_reglementation.pdf [↑](#footnote-ref-2)
2. We assume that there are no diversification benefits [↑](#footnote-ref-3)
3. We assume that the SCR group equals the sum of the SCR(s) [↑](#footnote-ref-4)