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Public consultation on the review of prudential rules for insurance and reinsurance companies (Solvency II)

Fields marked with * are mandatory.

Introduction

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Insurance companies[1] **play an important economic and social role**. Indeed, insurance is provided for many events of human life (sickness, car accidents, fire damage, death, etc.) but also for potential liabilities as regards third parties such as medical liability. Insurers also play an important role in non-bank intermediation, for instance by channelling household savings into the financial markets and into the real economy.

The core business model of insurance companies is very specific. Insurers collect premiums from clients (referred to as "policyholders") up-front but are only obliged to make payments if a predefined adverse event occurs at a later stage[2]. The insurance sector is also prone to information asymmetry. In general, policyholders are less aware than the insurance company about the own ability of the latter to fulfil the terms of the contract (solvency) or the risks underlying the contract (conduct of business).

Insurance companies perform a key function in the economy, **and their failure could have very detrimental consequences for its functioning. Intervention of public authorities is therefore needed, in particular to guarantee that insurance companies are able to honour insurance contracts (i.e. that they are "solvent").** For this reason, there is regulation as regards the solvency of insurance companies and for minimisation of the disruption and losses for policyholders in case of insurance failure (so-called "prudential supervision").

Since the 1970s, the European Union (EU) has adopted a series of legislative acts (so-called "Solvency I") aiming at facilitating the development of a Single Market in insurance services, whilst securing an appropriate level of policyholder protection. However, this framework was characterised by a number of structural weaknesses. In particular, it ignored key risks faced by insurers (for instance, risks of negative downturns in financial markets) and did not guarantee an equivalent level of protection for all citizens in Europe.

Solvency II which entered into application in 2016, introduces for the first time a harmonised, sound and robust prudential framework for insurance firms in the EU. It is based on the risk profile of each individual

insurance company but still ensures comparability, transparency and competitiveness. The Solvency II framework consists of three 'pillars':

- quantitative requirements, including the rules to value assets and liabilities (in particular, technical provisions – liabilities towards policy holders), to calculate capital requirements and to identify eligible own funds to cover those requirements (referred to as “Pillar 1”);
- requirements for risk management, good governance, as well as the details of the supervisory process with competent authorities (“Pillar 2”);
- requirements on transparency, reporting to supervisory authorities and disclosure to the public (“Pillar 3”).

The same approach is being applied for insurance groups as for individual insurers, so that groups are recognised and managed as economic entities.

As confirmed by stakeholders’ statements at the recent conference organised by the European Commission on the review of Solvency II[3] on 29 January 2020, the general perception is that the European framework as a whole functions well. At the same time, the experience gained from the first years of application of the Solvency II framework and the feedback received from industry stakeholders and public authorities have identified a number of areas, which could deserve a review. Furthermore, the framework also needs to take into account the political priorities of the European Union (notably the European Green Deal, the completion of the Capital Markets Union, and the strengthening of the single market) and should also be flexible enough to cope with any economic and financial developments (including the unprecedented protracted low – and even negative – interest rate environment).

Following a formal request for advice that was sent by the European Commission to the European Insurance and Occupational Pensions Authority (EIOPA) in February 2019, EIOPA conducted three technical consultations covering the 19 topics of the Solvency II review that were identified by the European Commission.

In parallel to EIOPA’s work on the review, **the European Commission intends to collect feedback from a wider audience, including policyholders, consumer associations, and financial market stakeholders other than insurers, by conducting its own consultation on the review**. This more general consultation will cover four main areas:

1. long-termism and sustainability of insurers’ activities and priorities of the European framework;
2. proportionality of the European framework and transparency towards the public;
3. possibilities to improve citizens’ trust, to deepen the single market in insurance services and to enhance policyholder protection and financial stability;
4. new emerging risks and opportunities (e.g. sustainability, technological developments, etc.) that may need to be addressed by the European framework.

The results of the present consultation will complement the one resulting from EIOPA’s technical consultations. They will all feed into the European Commission review process of the Solvency II framework.

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[1]↑ Note that throughout this consultation document, unless explicitly stated otherwise, the term “insurance” encompasses both insurance and reinsurance.

[2]↑ For instance, a house fire, a car accident causing damages to the policyholder’s car or physical injuries, the death of the insured triggering the payment of accumulated capital to pre-determined beneficiaries in the case of a life insurance contract, etc.

[3]↑ The recording of the conference is available here.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-s2review-consultation@ec.europa.eu.

More information:

- on this consultation
- on the consultation document
- on Solvency II
- on the protection of personal data regime for this consultation

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English (selected)
- Estonian
- Finnish
- French
- Gaelic
- German
- Greek
- Hungarian
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
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- Slovak
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- Spanish
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* I am giving my contribution as

- Academic/research institution
- ◉ Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* First name

Egbert

* Surname

Bouwhuis

* Email (this won't be published)

e.bouwhuis@verzekeraars.nl

* Organisation name

255 character(s) maximum

Dutch Association of Insurers

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](). It's a voluntary database for organisations seeking to influence EU decision-making.

22015185370-53

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Please add your country of origin, or that of your organisation.

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Bahrain	French Polynesia	Micronesia	South Africa
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Barbados	Gabon	Monaco	South Korea
Belarus	Georgia	Mongolia	South Sudan
Belgium	Germany	Montenegro	Spain
Belize	Ghana	Montserrat	Sri Lanka
Benin	Gibraltar	Morocco	Sudan
Bermuda	Greece	Mozambique	Suriname
Bhutan	Greenland	Myanmar /Burma	Svalbard and Jan Mayen
Bolivia	Grenada	Namibia	Sweden
Bonaire Saint Eustatius and Saba	Guadeloupe	Nauru	Switzerland
Bosnia and Herzegovina	Guam	Nepal	Syria
Botswana	Guatemala	Netherlands	Taiwan
Bouvet Island	Guernsey	New Caledonia	Tajikistan
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British Virgin Islands	Guyana	Niger	The Gambia
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- Clipperton
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- Colombia
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Democratic Republic of the Congo	Lesotho	Saint Kitts and Nevis	Zimbabwe
Denmark	Liberia	Saint Lucia	

* Field of activity or sector (if applicable)

at least 1 choice(s)

- [ ] Accounting
- [ ] Auditing
- [ ] Banking
- [ ] Credit rating agencies
- [x] Insurance and reinsurance
- [ ] Pension provision
- [ ] Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- [ ] Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- [ ] Social entrepreneurship
- [ ] Other
- [ ] Not applicable

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☑ I agree with the personal data protection provisions

Section 1: Long-termism and sustainability of insurers' activities, and priorities of the European framework

The main objective of Solvency II is the protection of policyholders.

The protection of policyholders requires that insurance companies are subject to effective solvency requirements based on the actual risks they are facing. Such a framework provides incentives for insurance companies to appropriately measure and manage their risks. The framework is defined in such a way that the risk of an insurance failure, even though not null, is of very low probability, as an insurer complying with its requirements is supposed to be able to cope with an extreme adverse event whose probability of occurrence is only 1 in every 200 years.

At the same time, it is important to ensure that insurers are not hindered from providing long-term funding to the European economy in line with the European Commission's political priorities such as:

- the European Green Deal, which should make Europe the world's first climate-neutral continent by 2050. To achieve this ambition, there are significant investment needs as well as opportunities. Their magnitude requires mobilising both the public and private sectors, including insurance companies;
- the completion of the Capital Markets Union (CMU), which aims to mobilise financial resources in Europe and channel them to all companies, including small and medium-sized enterprises (SMEs), and in infrastructure projects that Europe needs to expand and create jobs.

Solvency II includes a series of provisions aiming to ensure that the framework does not unduly prevent insurers from providing financing to the economy and to offer life insurance products with guaranteed returns (or capital guarantee). However, according to some stakeholders, European legislation has incentivised insurance companies to retrench from more long-term and thus illiquid assets (e.g. infrastructure projects). This may negatively affect European economic growth, and result in lower expected returns for life insurance policyholders.

Moreover, the current heightened equity and credit spreads volatility and the significant stock market contraction stemming from the Covid-19 crisis, as well as the vulnerabilities in the real estate sector[4] must be taken into account when reviewing the existing rules. The prudential framework should provide the right incentives for robust risk management while avoiding excessive risk-taking, and limiting financial stability implications. At the same time, it should avoid procyclical behaviour and not unduly prevent insurers from contributing to the long-term financing of the economic recovery of the European Union in the aftermaths of the current crisis.

In addition, while insurers' investments are exposed to risks related to climate change and reputational risk, European legislation may not appropriately reflect those risks, hence not providing the right incentives. The European Central Bank recently showed that climate change-related risks have the potential to become systemic for the euro area through possible significant exposures to climate risk, which are currently not included in the prudential framework[5].

Finally, over the recent years, insurers have faced an unprecedented environment of low interest rates, which is progressively deteriorating their profitability. This can raise several concerns. First, despite the prudential framework, it can incentivise insurers to "search for yield" by taking more risks and investing in more complex securities, as pointed out by the European Central Bank in November 2019[6]. Second, the low interest rate environment can also materially affect the life insurance landscape, and the ability of insurers to offer insurance products with guarantees. The current trend of risk shifting to policyholders can result in new challenges, depending on customers' risk tolerance and financial literacy.

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[4]↑ See for instance, ESRB's warnings and recommendations on medium-term residential real estate sector vulnerabilities.

[5] See the special feature "Climate change and financial stability" published in May 2019 as part of the European Central Bank's Financial Stability Review.
[6] See the ECB's Financial Stability Review of November 2019.

Objectives of the framework and priorities of the review

According to the current European legislation, "*the main objective of insurance and reinsurance regulation and supervision is the adequate protection of policy holders and beneficiaries. (...) Financial stability and fair and stable markets are other objectives of insurance and reinsurance regulation and supervision which should also be taken into account but should not undermine the main objective*".

Question 1: What could be the renewed objectives of European legislation for insurance companies?

On a scale from 1 to 9 (1 being "not important at all" and 9 being "of utmost importance"), please rate, and if possible rank, each of the following proposals.

	1	2	3	4	5	6	7	8	9	Don't know /no opinion
Policyholder protection	○	○	○	○	○	○	○	○	◉	○
Financial stability	○	○	○	○	○	○	○	◉	○	○
Fostering investments in environmentally-sustainable economic activities which will be defined in the EU taxonomy[7]	○	○	○	○	○	○	○	◉	○	○
Fostering long-term investments in the real economy and providing long-term financing to European companies, including SMEs	○	○	○	○	○	○	○	◉	○	○
Ensuring a fair and stable single market	○	○	○	○	○	○	○	◉	○	○

[7] The taxonomy is a clear and detailed EU classification system for sustainable and environmentally-sustainable activities, which is currently under development. It is aimed to become a "common language" for all actors in the financial system.

If you identify other political objectives, please specify them and give a rating of their importance from 1 to 9 for each of them:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The protection of current policyholders is a key objective of the prudential legislation. However, there should also be an objective related to new policyholders in the future and policyholders' ability to renew their current policies after the expiration of the current insurance contracts. Insurance companies provide an essential and stabilising risk transfer service to the public that should be protected and available for customers. Overly protecting current policyholders will hamper insurance accessibility across Europe. The Solvency II calibration should strike a balance between the two stakeholders. We set the rating of this objective at 8.

Question 2: In light of market developments over the recent years, in particular the low or even negative interest rates environment and the Covid-19 crisis, what should be the priorities of the review of the European legislation for insurance companies?

On a scale from 1 to 9 (1 being "low priority" and 9 being "very high priority")? Please rate, and if possible rank, each of the following proposals.

	1	2	3	4	5	6	7	8	9	Don't know /no opinion
Ensuring that insurers remain solvent		X								
Ensuring that insurers' obligations to the policyholders continue to be fulfilled even in the event that they fail		X								
Ensuring that there are no obstacles for insurance companies to contribute to the investment needs of the European Green Deal, i.e. fostering insurers' investments that help the transition to carbon neutrality by 2050									X	
Ensuring that there are no obstacles for insurance companies to invest in accordance with the objectives of the Capital Markets Union, i.e. fostering insurers' long-term									X	

financing of the European economy, including SMEs										
Facilitating insurers' ability to offer (sufficiently) high returns to policyholders, even if this implies taking more risks	○	○	○	○	○	○	○	○	●	○
Facilitating insurers' ability to offer products with long-term guarantees	○	○	○	○	○	○	○	○	●	○
Ensuring that insurers do not face liquidity issues (i.e. that they have sufficiently liquid assets) to meet at all times short-term obligations[8]	○	●	○	○	○	○	○	○	○	○
Preventing the build-up of systemic risk and ensuring financial stability	○	●	○	○	○	○	○	○	○	○

[8]↑ i.e. cash or other highly marketable securities.

If you identify other priorities, please specify them and give a rating from 1 to 9 to each of them:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe’s reply which says that reducing the unnecessary burdens and costs of the regulation should be an objective of the review, with an importance set at 9. In addition we would like to say the following:
Furthermore we would like to add shared resilience solutions with a rating of 6 to the list of priorities for the Solvency II review. Currently, many Member States are developing structures to cope with the COVID-19 crisis. EIOPA issued a paper which was based on a pan-European cooperation between many stakeholders. In order to maintain a level playing field, the review 2020 should take into account these developments and consider how to incorporate them without distorting the fundamentals of the Solvency II regime. Any mechanism should take into account the different characteristics in various Member States (economic, legal, cultural, technological (incl. digitalisation), possibility of perils affecting the Member States, policyholder behaviour, etc.). There is no “one-size-fits-all” solution.

Capital requirements for investments in SMEs (both in equity and debt), for long-term investments and for sustainable investments

Question 3: Have the recent changes to the prudential framework regarding equity investments appropriately addressed potential obstacles to long term investments?

- [ ] Yes
- [x] No, the recent changes will not have a material impact on insurers’ ability to invest for the long term
- [ ] Don’t know/no opinion

Please specify what the remaining obstacles are, and how to address them while preserving the necessary prudential safeguards to ensure policyholder protection:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe’s reply. In addition we would like to say the following:
An insurer can only have influence over companies, with which you can steer towards sustainability, through being shareholder and engaging together with other shareholders with similar views. Therefore, it is important to improve the criteria in Solvency II for the long-term equity category.
Equity portfolios are maintained on insurers’ balance sheet as part of their ALM process, the expected retention rates (esp. for the short duration insurance contracts) and their risk appetite. There are several reasons for insurers to buy and sell equity investments. They should be free to do so, as long the total equity holdings are within their specified policies and match with their specific liabilities. Thus, equity investments are part of the strategic asset mix, but that does not imply that every individual equity investment is maintained for a very long duration. The portfolio is the level at which the alignment takes place.
The ability to avoid forced sales and active management of the portfolio, is key in protection of the interest of policyholders. On the longer term, the strategic holding of an equity portfolio provides a good opportunity for higher returns for the policyholder. An adequate ALM process and active portfolio management should protect policyholders. In addition, stress testing should provide the means to assess the actual risk for the interests of the policyholders.

Question 4: Does the prudential framework set the right incentives for insurers to provide long-term debt financing to private companies, including SMEs (i.e. to invest for the long-term in long-maturity debt instruments)?

Please indicate the statements with which you agree.

at least 1 choice(s)

- [ ] Yes, the framework provides the right incentives
- [ ] No, investments in long-maturity bonds (more than 15 years) should be less costly for insurers, regardless of whether they hold their investments for the long term
- [ ] No, there should be a preferential treatment for long-term investments in bonds that are held close to maturity, with appropriate safeguards[9]
- [x]

No, and in order to effectively reduce the cost of investment in bonds, Solvency II should allow all insurers to apply the dynamic modelling of the volatility adjustment

- No, and I have another proposal to address this issue
- Don't know/no opinion

[9] Note that in this case, it may be justified that the capital relief cannot exceed the one stemming from matching adjustment.

Please specify your answer to question 4 (if needed):

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe’s reply. Additionally, we observe that Solvency II requires insurers to calculate the spread risk, based on the credit quality step and the duration of the investment. This stress is then applied to the economic exposure of the investment. The longer the duration or credit quality, the higher the capital requirement. The VA attempts to adjust the exaggeration of bond spreads via an adjustment on the risk free interest rate. These two in conjunction should strike a balance, through method and calibration) with an emphasis on the default risk so that non-rated fixed income, long term fixed income are not treated unfavourable.

However, another possibility to set the right incentives is to shift the focus from spread risk towards default risk directly. The current Solvency II regime identifies spread risk and counterparty default risk. Already one type of investments is included in the standard formula part of the counterparty default risk module, mortgage loans. Other type of longer run investments could be included. Insurers will invest in these to align the cash flows of the assets with those of the insurance liabilities. The risk about which the insurer is most concerned, is default risk. In a default, the cash flows are not fully received. In this context, the structure of the CDR module is appropriate.

In theory, the capital requirement following the spread risk together with an appropriate VA (and DVA) should resemble the capital requirement following the CDR module.

The calculation of the capital requirement should see a shift towards counterparty default risk and the ability to avoid forced sales in order to protect the interest of the current policyholders in the short and longer term and to ensure future policyholders have the possibility to buy insurance solutions.

Insurers’ contribution to the objective of a sustainable economic growth and policyholder protection

Solvency II is a risk-based and evidence-based framework. This implies in particular that the quantitative rules governing capital requirements for insurers’ investments are supported by quantitative evidence. This entails a need for sufficient and robust data to support changes to Solvency II, which could further incentivise insurers to contribute to the long-term and sustainable financing of the European economy, while preserving the necessary level of policyholder protection embedded in the framework.

In particular, there is a need for sufficient evidence that the risk of investment in SMEs or in environmentally-sustainable economic activities and associated assets is lower than what the current prudential rules would imply.

Question 5: Do you agree or disagree with each of the following proposed change to quantitative rules in Solvency II?

	Agree	Disagree	Don't know /no opinion
We should make it less costly for insurers to invest in SMEs	◉	○	○
We should make it less costly for insurers to invest in environmentally-sustainable economic activities and associated assets (so-called "green supporting factor")	○	◉	○
We should make it more costly for insurers (and therefore provide disincentives) to invest in activities and associated assets that are detrimental to the objective of a climate-neutral continent (so-called "brown penalizing factor")	○	◉	○

Please explain your reasoning for your answer to question 5 (if needed):

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe’s reply. In addition we would like to say the following:
If the calibration of the risk actually assesses the risk in a going concern i.e. the default risk if forced sales can be avoided, the question regarding investment is then based on risk/return in the broadest sense. In this equation return also encompasses the societal impact, image etc.
With respect to investments in SMEs, we suggest revisiting all the evidence needed in the current methodology in order to obtain a less penalising Credit Quality Step or Equity charge. The current administrative burdens are too high.

Short-term volatility, procyclicality, and insurance products with long-term guarantees

The current Covid-19 crisis, characterised by heightened volatility in financial markets, drops in stock markets, rises in spreads and a series of rating downgrades by credit rating agencies, has resulted in more volatility of insurers’ solvency positions over the last months, according to industry stakeholders and public authorities. This requires assessing the effectiveness of the mechanisms embedded in the Solvency II framework (in particular, the so-called "long-term guarantee measures and the measures on equity risk") aiming at mitigating volatility of insurers’ solvency and at avoiding procyclical behaviours. If this volatility becomes excessive, it may hinder their ability to offer products with long-term guarantees and may incentivize them to largely shift the risk to policyholders (via the distribution of unit-linked or index-linked products). This could question the sustainability of the traditional life insurance business.

Question 6: Does Solvency II appropriately mitigate the impact of short-term market volatility on the solvency position of insurance companies?

- ( ) Yes
- (•) No
- ( ) Don’t know/no opinion

Please indicate how the framework could mitigate the volatility of:

- **fixed-income assets**
- **stock markets**

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe’s reply. Additionally, we refer to our annex for our proposal on an Own Asset VA as an option in the Currency VA as proposed by Insurance Europe. With respect to the fixed-income assets, the volatility could be reduced by multiple solutions:
1. Change the methodology to assess the counterparty default risk rather than spread risk if there is an ability to avoid forced sales in a going concern perspective;
2. If the spread perspective is maintained: The current volatility adjustment should be improved by allowing for the calculation of the risk weightings on the own asset portfolio in combination with appropriate reflection of own spread characteristics - in particular Dutch mortgages - rather than EIOPA’s reference portfolio; and a dynamic volatility adjustment should be introduced for the standard formula for those fixed-income assets which have a spread risk.

Question 7: Does Solvency II promote procyclical behaviours by insurers (e. g. common behaviour of selling of assets whose market value is plunging or whose credit quality is decreased), which could generate financial instability?

- ( ) Yes
- (•) No
- ( ) Don't know/no opinion

Over the recent years, in some countries, insurers have favoured the supply of insurance products where the investment risk is shifted to policyholders (i.e. higher risk for policyholders, but also prospects of potential higher returns over the long run), instead of traditional life insurance products with guarantees.

In a recent report[10], the International Monetary Fund recommended public authorities to consider “policies serving as a disincentive to new life insurance products offering guaranteed returns”.

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[10]↑ See the Global Financial Stability Report: Lower for longer (October 2019), and in particular page 47.

Question 8: Some stakeholders claim that Solvency II has incentivised insurers to shift investment risk to policyholders. Do you agree with this statement?

- Yes
- ● Yes, but it is not the most important driver
- No
- Don't know/no opinion

Question 9: Do you agree with the International Monetary Fund that public authorities should aim to provide disincentives to the selling of new life insurance products offering guaranteed returns?

	Yes	No	Don't know/no opinion
From the point of view of a policyholder		●	
In terms of financial stability		●	

Please explain your reasoning for your answer to question 9 (if needed):

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe's reply.

Prudential rules and Covid-19

The Covid-19 outbreak allows assessing the robustness of the regulatory framework under a crisis situation. As Solvency II requires insurers to set aside capital to absorb losses stemming from extreme events – including sanitary crises such as a pandemic – that occur once in two hundred years, the insurance sector proved to be in general well-prepared to cope with the current adverse financial and economic conditions[11].

[11]↑ By the end of 2019, insurers held on average an amount of capital which was more than twice as high as the one required by the legislation.

Question 10: In light of the Covid-19 crisis, have you identified any major issues in relation to prudential rules that you were unaware of or considered of lesser importance prior to the pandemic?

- (selected) Yes
- No
- Don’t know/no opinion

* **Please elaborate your anwser to Question 10:**

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We have selected this option not because we necessarily agree with it but because it allows us to comment.

We support Insurance Europe’s reply. In addition we would like to observe the following:
Although, the direct impact of the COVID-19 crisis did not create prudential concerns (breaches), no levers for adaptation of the prudential requirements (other than pillar III) were possible.
Article 138 of Directive 2009/138/EC has also secondary impact which is not assessed. Insurers have defined their risk appetite and desired level of capital. In this assessment, the volatility of the markets, the possibility/acceptance of breaches of internal and external capital limits are included. The governance policies of the insurers are to be met in all instances including stress circumstances.
If article 138 would have been invoked, the insurers could also have temporarily changed the consequences of a breach of internal limits and the speed for their recovery. Supervisors are informed of internal breaches and will assess the speed of the recovery / plan of action.

Other issues

Some insurance companies are subsidiaries of (and therefore belong to) wider insurance groups. The European legislation identifies such insurance groups as integrated “economic entities”, which are therefore subject to Solvency II rules on a consolidated basis. However, under current rules, public authorities focus on ensuring that both the solo entities of the group and the group as a whole have enough capital to cover their risks.

Some stakeholders are of the view that it might be sufficient for public authorities to supervise the solvency position of insurance groups only (and not of individual insurers), and to ensure that they are sufficiently well-capitalised to support all funding needs of insurance subsidiaries. This would imply that individual insurers belonging to a group could be left under-capitalised, provided that the group as a whole is well-integrated and has sufficient available capital to cover all risks to which insurance companies within the group are exposed, and therefore to meet each subsidiary’s financing needs on demand.

Question 11: From the point of view of policyholders, would it be acceptable to waive Solvency II requirements to insurance companies that belong to a group, if the group as a whole is subject to “strengthened” supervision?

- (selected) Yes, it is sufficient for the insurer to rely on the group's wealth
- No, it is not sufficient for the insurer to rely on the group's wealth
-

Don’t know/no opinion

Please explain your reasoning for your answer to question 11 (if needed).

In particular, please specify what a “strengthened” group supervision would encompass:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We have selected this option not because we necessarily agree with it but because it allows us to comment.

We support Insurance Europe’s reply. At the start of the development of Solvency II, the original proposal for the Directive 2009/138/EC, the concept of group support was embedded in the legislation but was cut out at the latest moment. In an internal market with converged supervision, it should not matter where the insurer or insurance group is supervised and if this would be performed at group level.
Being part of a group provides various benefits for any solo insurer which should be recognised by the Solvency II legislation. Providing additional liquidity, possibility for additional capital, sharing of specialist knowledge and factors of scale are some of the benefits that exist.

Some stakeholders claim that Solvency II focuses too exclusively on the monitoring of individual insurers without taking into account their exposure to and interconnectedness with other insurers, the broader financial sector and the real economy.

Question 12: Should the European legislation be amended to better take into account insurers’ exposure to and interconnectedness with the broader financial sector and the real economy? Please indicate the statements with which you agree.

at least 1 choice(s)

- [x] Yes, in targeted areas of the framework[12]
- [ ] Yes, a number of gaps in the framework need to be addressed in areas other than those mentioned in the previous answer (for instance, insurers’ significant exposure to specific types of assets)
- [ ] No
- [ ] Don’t know/no opinion

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[12]↑ Reference can be made to the closed list of topics identified in section 3.10 of the European Commission’s Call for advice: the own risk and solvency assessment, the prudent person principle, liquidity risk management and reporting, and systemic risk management planning.

Section 2: Proportionality of the European framework and transparency towards the public

Scope of Solvency II

Solvency II is a sophisticated while often complex prudential framework. Applying it appropriately is a costly exercise.

Therefore, certain companies that provide insurance services are not covered by the European framework due to their size, their legal status, their nature – as being closely linked to public insurance systems – or the specific services they offer. In practice, Solvency II does not apply to very small insurance companies (it is worth mentioning that the exclusion from Solvency II also prevents the insurers concerned from doing business on a cross-border basis). However, the quantitative thresholds of exclusion have not been reviewed since the entry into force of the Directive in 2009.

Increasing the quantitative thresholds of exclusion of Solvency II would result in an increase in the number of insurance companies which are not in the scope of the European framework. This increase could be justified by the objective of further alleviating undue regulatory burden for small insurers, and might result in lower premiums to be paid by policyholders of those small firms with (possibly) higher fixed costs.

On the other hand, for policyholders of those firms, which would be excluded from the scope of Solvency II, there is no guarantee that the level of protection introduced at national level would be as high as the one stemming from Solvency II rules. In addition, from a European perspective, it might be argued that new exclusions from the scope of Solvency II would go against the objectives of integration of the Single Market for insurance services and of level-playing field within the European Union.

Question 13: From the point of view of policyholders, should the scope of small insurance companies, which are not subject to Solvency II be extended?

- (selected) Yes
- No
- Don’t know/no opinion

Please explain your reasoning for your answer to question 13 (if needed):

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe’s reply.

Proportionality in the application of Solvency II

Solvency II aims at limiting the burden for small and medium-sized insurance companies within its scope. One of the tools by which to achieve that objective is the application of the proportionality principle. In other words, the requirements should be adapted and simpler when such an approach is justified by the nature, scale and complexity of the risks. That principle should apply both to the requirements imposed on insurance companies and to the exercise of powers by public authorities.

As Solvency II is a “principle-based” framework, its implementation by public authorities heavily relies on supervisory judgement by public authorities. In particular, as regards proportionality, there are only broad principles regarding the way of assessing whether a given insurer may be allowed to implement certain requirements in a more proportionate and flexible way.

In practice, this high level of supervisory discretionary power may have limited the effective implementation of the proportionality principle, and the effective possibilities for small insurers with a low risk profile to implement the framework in a simplified way.

For this reason, some stakeholders claim that Solvency II should be more “rules-based” regarding the implementation of the proportionality principle, which would require setting clear and unambiguous criteria in the legislation - for automatic allowance for simplified rules when those criteria are met. However, it may be challenging in practice to define appropriate criteria, which would take into account the actual risks faced by each insurer.

Question 14: Should public authorities have less discretion when deciding whether insurers may apply simplified approaches and/or implement Solvency II rules in a more proportionate and flexible way? Please explain your reasoning (if needed).

- [x] Yes
- [ ] No
- [ ] Don’t know/no opinion

Please specify the criteria that should be introduced in the European legislation, in order for an insurer which meets them to be automatically granted the use of simplified approaches and/or a more proportionate and flexible application of the rules:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe’s reply.

Scope of reporting obligations

The European framework requires insurance companies to regularly submit to public authorities the information which is necessary for the purpose of prudential supervision. However, it also contains some exemptions and limitations that national authorities can grant if the companies concerned do not represent more than 20% of a Member State’s insurance market.

Question 15: Should the exemptions and limitations always be subject to the discretion of the public authorities? Please indicate the statements with which you agree.

at least 1 choice(s)

- [ ] The current system of exemptions and limitations is satisfactory
- [x] The framework should also include some clear criteria for automatic exemption and limitation
- [ ] The 20% limit should be increased
- [ ] The 20% limit should be reduced
- [ ] There should be no discretion at all
- [ ] I have another answer
- [ ] Don't know/no opinion

Please specify your answer to question 15 (if needed).

In particular, if you think that there should be clear criteria for automatic exemption and limitation, please specify those criteria:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe’s reply. In addition we would like to say the following:
Granting exemptions locally creates divergence and an unlevel playing field. Therefore, it would be better to objectivise the rules and strive for automatic recognition.
The public reporting should be consistent with the use of the information and the need for that information. Not all insurance companies have the same number and category of stakeholders. On the one end of the continuum there are small insurance entities, not listed, regional oriented having no rating by an ECAI and on the other hand there are large listed international financial conglomerates having multiple ratings. The categories of insurers have different stakeholders which have different needs of information. With respect to the former, the information burden should be proportionate to their needs i.e. basically the policyholders; with respect to the latter, many of the stakeholders are professional users requiring more and detailed information.

Specificities of not-for-profit insurers

Most Solvency II rules apply uniformly to all insurers regardless of their legal form or corporate structure. This is in particular the case for governance requirements (e.g. requirements for directors and board members to have appropriate knowledge and experience).

The European legislation has required changing and strengthening the governance of mutual companies (i.e. not-for-profit companies, which are collectively owned by their members who are at the same time their clients) and paritarian institutions (i.e. not-for-profit institutions that are jointly managed by the social partners).

Question 16: Should the European framework take into account the specific features of not-for-profit insurance companies (e.g. democratic governance, exclusive use of the surplus for the benefit of the members, no dividend paid to outside shareholders)?

- (x) Yes
- ( ) No
- ( ) Don’t know/no opinion

Please specify the areas of the framework, which should be adapted (quantitative requirements? governance requirements? etc.):

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

> The current framework implicitly assumes an insurer has owners (shareholders) that are not the same as their clients. This is not the case for mutual insurers (where (some of) the policyholders are the owners) and captives.
> If the SFCR is split into a part for the policyholder and a part for professionals, it should be taken into account that the professional part is currently used by investment analysts/advisers and reinsurance advisers. If an insurer does not seek funds from the capital markets (through issuing equity or bonds), as many mutuals and some captives do, there is no need for them to have to make a “professional SFCR”. As reinsurance- or credit advisers or -providers will be satisfied with the information that the insurers provide them on request and which is already available. No separate SFCR is needed for that. Mutuals and captives do have policyholders, so the policyholder SFRC should be obligatory. But care should be taken to consumer-test the policyholder SFCR to find out if the consumer understands the information he/she is given.

The European framework has substantially improved transparency towards the public. Indeed, each insurer subject to Solvency II has to disclose – that is to say make it available to the public in either printed or electronic form free of charge – at least on a yearly basis, a report comprising information on its business strategy, financial and solvency situation, and risk management (so-called “Solvency and Financial Conditions Report” – SFCR).

Some insurers claim that this report is burdensome to produce and is not fit for purpose, as it may appear too complex and too detailed for current or prospective customers. On the other hand, other stakeholders in the financial industry (e.g. investors) are requesting further transparency on solvency data.

Please note that the European Commission is also reviewing the rules concerning non-financial reporting for public interest entities, including insurance companies[13]. One of the aims of this review is to improve publicly available information about how non-financial issues, and sustainability issues in particular, impact companies, and about how companies themselves impact society and the environment. As part of this review, the European Commission launched a public separate consultation between 20 February and 11 June 2020.

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[13] More information on the review of the rules concerning non-financial reporting for public interest entities, including insurance companies.

Transparency towards the general public

Question 17: How can the framework facilitate policyholders' and other stakeholders' access to the SFCRs?

	Agree	Disagree	Don't know / no opinion
The current framework is sufficient, as it already requires insurers to publish their SFCR on their website if they own one	●	○	○
The framework should clearly require that insurers' publication on their website is easily accessible for the public	○	●	○
Insurers should be required to send (electronically or by mail) on a regular basis a summary of the SFCR to each policyholder	○	●	○
Insurers should be required to send (electronically or by mail) the SFCR to each policyholder who explicitly requests for it	●	○	○
Other options	●	○	○

Please specify your answer to question 17 (if needed).

In particular, if you identified other options, please elaborate:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe's reply.

Question 18: If you have already consulted a SFCR, did you find the reading insightful and helpful, in particular for your decision making on purchasing (or renewing) insurance, or investing in/rating an insurance company? Please indicate the statement(s) with which you agree.

at least 1 choice(s)

- [ ] The reading was insightful
- [ ] The information provided was in the right level of details
- [ ] The information provided was too detailed
- [ ] The information provided was redundant with what can be found in other public reports by insurers
- [ ] No, the reading was not insightful
- [ ] I have never consulted a SFCR
- [x] Don’t know/no opinion.

Question 19: Which information should be provided to policyholders on insurers’ financial strength, business strategies and risk management activities? What should be the ideal format and length of the SFCR?

3000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe’s reply. In addition we would like to observe the following:
The answer to the question differs per category of insurers i.e. the length of the insurance contract and cover. Policyholders with a short term non-life insurance contract want to know whether the insurer is able to pay-out any claims they would have under the terms and conditions of the contract. That time horizon would be limited in duration.
Policyholders with a life insurance contract or a non-life insurance contract with a longer duration want to know whether the insurer is still able to pay out the agreed benefits/ claims at the insured event in the future. When having a longer view, the policyholder would be interested in understanding the views on the development of the Solvency ratio i.e. the ability to pay the benefits due as agreed. What risks are possibly on the horizon which impede on this ability and what contingency plans would be in place?
The details which are currently enforced are too detailed, not helpful in understanding the actual financial strength of the insurer for the normal policyholder (being a natural person or SME). The actual information should be as simple as possible and should be confined to 2 or 3 pages.

Question 20: Some insurers belong to wider insurance groups, which also have to publish a Solvency and Financial Conditions Report at group level (so-called "group SFCR”). Do policyholders (current or prospective) need to have access to information from group SFCRs?

- ( ) Yes

- [x] No
- [ ] Don’t know/no opinion

Question 21: Should all insurers publish a SFCR on a yearly basis? Please indicate if you agree or disagree with the following statements.

- [ ] Yes, all insurers should publish a SFCR on a yearly basis
- [x] Yes, but some insurers should only be required to publish a summary of their SFCR on a yearly basis
- [ ] No, a yearly publication of the SFCR should not be required for some insurers
- [ ] No, a yearly publication of the SFCR should not be required for any insurer
- [ ] Don't know/no opinion

Please indicate what you consider the appropriate frequency of publication of the SFCR (or of its summary) and whether all insurers or only some types should publish them (if the latter, please specify which types):

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

> We support Insurance Europe’s reply. In addition we would like to say the following:
> For insurance entities which are also required to publish an annual statement/financial statement, the information embedded in the SFCR could also be merged into one document. This would reduce duplications significantly. In the so called risk management paragraphs, a lot of information is also disclosed which duplicates information as asked in section A, B and C of the SFCR.

Question 22: Some insurers use their own internal models to calculate their solvency requirements, after approval and ongoing supervision by public authorities, and not the prescribed standard approach defined by the legislation. For those insurers that use an internal model, should European legislation require them to also calculate their solvency position using standard methods for information purposes, and to disclose it to the public?

- [ ] Yes
- [x]

No, insurers that use their own internal models should not be required to publicly disclose their solvency position using standard methods, although they should be required to calculate it and to report it to public authorities

- No, insurers that use their own internal model should not be required to calculate their solvency position using standard methods
- Don't know/no opinion

Please explain the issues stemming from such a disclosure:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The calculation with the standard formula would still be necessary enabling the appropriateness assessment included in the ORSA and the standard formula is the fall back scenario whenever the internal model is not fit for business anymore. However, to reduce the administrative burdens, estimations and proportionality should be allowed.

Section 3: Improving trust and deepening the single market in insurance services

Supervision of cross-border business

The rationale for the EU insurance legislation is to facilitate the development of a Single Market in insurance services, whilst securing an adequate level of policyholder protection.

Insurers that have obtained a licence to operate in a Member State under Solvency II rules are allowed to operate in any other Member State of the Union (so-called "EU passporting" system).

The harmonised requirements under Solvency II aim to ensure uniform levels of policyholder protection throughout the Union.

The supervision of insurance activities (including cross-border) is the responsibility of the national public authority that granted the licence to the insurer (the "Home" authority), and not the public authorities of the other Member States where the insurer operates (the "Host" authorities). However, a European Supervisory Authority (the European Insurance and Occupational Pensions Authority) is in charge of ensuring supervisory convergence, and contributes to the coordination of the supervision of cross-border activities.

Some insurers operating cross-border have failed over the recent years, with negative impacts on policyholders. Such cases may have unduly affected public trust in the Single Market for insurance services.

Question 23: When the Home authority does not take the necessary measures to prevent excessive risk taking or non-compliance with the European rules by an insurer for its cross-border activities, should the Host authority be provided with additional powers of intervention, in order to protect policyholders?

- (x) Yes
- ( ) No
- ( ) Don't know/no opinion

Please specify the additional powers needed:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We have selected this option not because we necessarily agree with it but because it allows us to comment.

We support Insurance Europe's reply. For groups operating in multiple countries, a so-called college of supervisors is established. In this college this kind of issues would be discussed and resolved. For these colleges a mediating role of EIOPA is possible. However, in structures where branches are formed this is not the case. One could assess whether it is justified to install a kind of college of supervisors in which the host authorities will reside where there is a significant number of policyholders insured. This college should be able to discuss these kind of issues. However, is the number of cases, as described by the European Commission, sufficient to introduce new structures and powers. Has there been a sufficient assessment what went wrong in these individual cases and whether any structure flaw is seen? It should be avoided to install dual supervision which will be detrimental to the competitiveness of the insurance sector and will lead to additional administrative burdens.

Question 24: Should the supervision of cross-border activities by insurers be exercised by national authorities or by a European authority?

- ( ) By national authorities only
- ( ) By a European authority only
- (x) By national authorities, with European coordination where needed.
- ( ) Other answer
- ( ) Don't know/no opinion

Preventing and addressing insurance failures

Policyholders across the EU have different levels of protection in the event of their insurer's failure. National public authorities have different sets of powers to deal with an insurer whose financial position is deteriorating or that is failing.

Solvency II already provides authorities with a general power to take any measures, which they deem necessary to safeguard the interests of policyholders. It further requires firms to set up a recovery plan ("ex-post") when they do not comply with their quantitative solvency requirements. However, some Member States require insurers to also draft and maintain pre-emptive recovery plans setting out possible measures to deal with crisis scenarios. Resolution regimes, which aim to address the fall-out of an insurance failure in an orderly manner and to prepare authorities for such events with resolution plans and resolvability assessments, are mostly incomplete and uncoordinated. The lack of availability for national authorities of the right tools to deal with failures, leads to different levels of policyholder protection and affects public authorities' ability to safeguard financial stability.

In addition, a majority of Member States have introduced national Insurance Guarantee Schemes (IGS) that provide last-resort protection to policyholders. When insurers are unable to fulfil their contractual commitments, IGS offer protection against the consequences of a failure of an insurance company. These IGS are generally funded by the insurance industry. An IGS can offer protection by paying compensation to policyholders or by ensuring the continuation of insurance contracts.

However, not all Member States have created such a safety net for the protection of policyholders and the geographical scope, the coverage and powers of the current IGS differ. This implies that policyholders of insurers located within some Member States would not benefit from the same IGS protection in the event of an insurance failure as in other Member States. This situation leads to gaps and overlaps in IGS protection.

Note that the protection of victims of motor accidents in the case of the insolvency of an insurer is already covered by the proposal amending the Motor Insurance Directive, which is currently negotiated by the European Parliament and the Council of the European Union.[14]

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[14]↑ More information on the Motor Insurance Directive.

Question 25: Do you consider that insurers and public authorities are sufficiently prepared for a significant deterioration of the financial position or the failure of an insurer and that they have the necessary tools and powers to address such situations, in particular in a cross-border context?

- (●) Yes
- ( ) No
- ( ) Don't know/no opinion

Question 26: Should it become compulsory for all Member States to set up an IGS, in order to ensure that a minimum level of policyholder protection is provided across the EU?

- ( ) Yes
- (●) No
- ( ) Don't know/no opinion

Please explain your reasoning for your answer to question 26 (if needed):

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe’s reply. In addition we would like to say the following:
As explained in our annex , we support a level of minimum harmonisation of resolution frameworks at EU level. We believe a well-functioning resolution framework renders an insurance guarantee scheme redundant, because it allows for the orderly resolution of an insurance portfolio or insurer, while limiting unnecessary losses to policyholders.
Within resolution, additional protection is granted to policyholders against a breach of the no-creditor-worse-off principle, through resolution funding (compensating against losses incurred in resolution). Such a mechanism could be considered to be an insurance guarantee scheme or to be an alternative to an insurance guarantee scheme.
We believe it is hard to answer a question to the need to set up an IGS in isolation. Instead, the overall protection of policyholders should be considered, as well as the costs and benefits of an IGS. What additional coverage should an IGS offer, in addition to the protection offered by Solvency II, a recovery and resolution framework, protection of policyholders against a breach of the no-creditor worse-off principle and a high ranking of policyholder rights in insolvency. 100% protection of policyholder rights does not seem realistic and overly costly. Coverage of an absolute amount (similar to a deposit guarantee scheme for banks) does not seem meaningful either.
Furthermore, insurance guarantee schemes, in particular in cross-border situations, increase the risk that losses are passed on to others, that have not been responsible for such losses in the first place (and might even have been negatively affected before by the failed competitors). A pre-funded IGS (which could theoretically address this issue) seems disproportionate, given the nature of the insurance business and overall protection level of the prudential framework.

Question 27: Which of the following life insurance products should be protected by IGS?

- ○ All life insurance products
- ○ Some life insurance products
- ● No life insurance products
- ○ Don’t know/no opinion

Question 28: Which of the following non-life insurance products should be protected by IGS?

	Should be covered	Should not be covered	Don't know/no opinion
Health	○	●	○
Workers’ compensation	○	●	○
Insurance against Fire and other damage to property	○	●	○
General liability	○	●	○
Accident (such as damage to the driver)	○	●	○
Suretyship for home building projects	○	●	○
Other	○	●	○

Please elaborate your answer to question 28.

In particular, if you consider that other non-life insurance products should be protected please specify which products:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please see our answer to question 26. Although Member States could opt locally to have an IGS, we don't think it should be necessary to prescribe certain products for IGS protection.

Question 29: Should all mandatory insurance be covered by IGS?

- ○ Yes
- ● No
- ○ Don't know/no opinion

Please specify your answer for your answer to question (if needed):

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe's reply. In addition we would like to refer to our answer to question 26.

Question 30: If your insurer fails, what would you prefer?

- ○ Receiving compensation from the IGS
- ○

That the IGS ensures that your insurance policy continues, for example by transferring it to another insurer

- (x) It depends on the type of insurance policy
- ( ) Don’t know/no opinion

Please explain your answer to question 30:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Although the question is addressed to policyholders, we would like to comment: In particular (but not only) for life insurance, a portfolio transfer would be the best solution. However, we do not believe it will necessarily be the IGS that ensures continuation of the insurance portfolio. In fact, in the Netherlands this will be dealt with under the resolution regime, not under an IGS. Portfolio transfers, run-offs etc. are functions of the resolution regime, not of an insurance guarantee scheme. The Dutch resolution regime does provide for resolution funding, which could be a function of an insurance guarantee scheme elsewhere.

Question 31: The coverage level of IGS determines the level of protection provided to policyholders. Should the European legislation set a minimum coverage level at EU level?

- ( ) Yes
- (x) No
- ( ) Don’t know/no opinion

Preventing financial stability risks and ensuring policyholder protection

Question 32: In order to limit the risk of insurance failures and protect financial stability, should public authorities have the power to temporarily prohibit redemptions of life insurance policies? Please indicate the statement (s) with which you agree.

at least 1 choice(s)

- [x] Yes, at sectoral level, to the extent that such a measure is absolutely necessary to address major threats to the insurance sector
- [ ] Yes, in cases where a specific insurer is in a weak financial position
- [x] Yes, in cases where a specific insurer is in financial distress, and as long as policyholders would be better off than in the event of the insurer’s failure

- [ ] No
- [ ] Don’t know/no opinion

Question 33: In order to limit the risk of insurance failures and protect financial stability, should public authorities have the power to reduce entitlements of a life insurer’s clients (e.g. reducing the right for bonuses that policyholders were initially entitled to receive)? Please indicate the statement (s) with which you agree.

at least 1 choice(s)

- [ ] Yes, if the insurer is in deteriorated financial position
- [x] Yes, as a last resort measure, and as long as policyholders would be better off than in the event of a failure
- [ ] No
- [ ] Don't know/no opinion

Flexibility of the framework under crisis situations

Solvency II provides that when exceptional adverse situations are identified by the European Insurance and Occupational Pensions Authority, national authorities may give more time for insurers to restore compliance with quantitative requirements (from six months to up to seven years). Still, there is a need to evaluate whether the Solvency II framework is sufficiently flexible and reactive to crisis situations (such as the current Covid-19 pandemic), in order to preserve insurers’ solvency and financial stability, but also to restrict the regulatory burden stemming from reporting and disclosure requirements.

Question 34: Please specify whether other exceptional measures than those mentioned in Question 32 and Question 33 should be introduced in order for public authorities aiming to preserve insurers’ solvency and financial stability to intervene timely and in an efficient manner during exceptional adverse situations.

Please also clarify if those measures should apply at the level of individual insurers or widely to the whole sector:

3000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe’s reply.

Question 35: In your view, should the framework provide for flexibility to alleviate certain regulatory requirements during exceptional adverse situations?

- (x) Yes
- ( ) No
- ( ) Don’t know/no opinion

Please specify which additional provisions/measures would provide for sufficient flexibility of the framework, and which regulatory requirements would need to be alleviated during exceptional adverse situations:

2000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We have selected this option not because we necessarily agree with it but because it allows us to comment. We support Insurance Europe’s reply. Additionally, we observe the following.

In a perfect world, the framework would be perfect too and able to cushion all stresses it is exposed to, no matter how severe. As the framework is based on market valuation, some flexibility seems necessary and is already included. After all, markets have the possibility to stop trading certain financial instruments or close altogether. EIOPA has the power to declare an economic stress extreme, enabling extension of the recovery period to 7 years.

So, in a sense, the framework already provides for flexibility. However, catastrophes come in different guises, potentially strong enough to destroy large parts of the insurance industry (for example a successful longevity treatment, the collapse of the main currency (dollar/ euro), a highly contagious and deadly pandemic, an electro-magnetic pulse (EMP) destroying the IT infrastructure, and so on). In such cases, declaring a State of Emergency for the sector would give possibilities to overrule normal regulation. However, if Solvency II regulation were to provide for sufficient flexibility, then the insurance industry could deal with those stresses by itself, without the need for declaring a sector State of Emergency. Such flexibility should be allowed in the interest of policyholders. The power to alleviate regulatory requirements should reside at European level, to assure the level playing field.

In addition, the following measure could provide flexibility when in need: declaring a moratorium in which certain pre-stress parameters for calculating technical provisions or valuating the balance sheet stay valid until further notice, giving time to resolve the issue at hand (like RFR, mortality projection tables, spreads on certain bonds (of governments that went bankrupt), and so on).

Section 4: New emerging risks and opportunities

A. European Green Deal and sustainability risks[15]

The European Commission recently unveiled its European Green Deal for the EU and its citizens, with the aim for Europe to become the world's first climate-neutral continent by 2050. The European Green Deal is a new growth strategy that aims to transform the EU into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net emissions of greenhouse gases in 2050 and where economic growth is decoupled from resource use. To achieve the ambition set by the European Green Deal, there are significant investment needs. These also represent opportunities for sustainable investment.

Insurance companies can contribute to these investment needs and can benefit from new opportunities arising from the green transition. Their underwriting activities can also help increase the Union's resilience to sustainability risks, in particular when it comes to damage arising from natural catastrophes. However, insurers are exposed to climate change, both through their investment and underwriting activities. The European Insurance and Occupational Pensions Authority (EIOPA) indicated in a recent opinion[16] that the European legislation may currently not appropriately reflect those risks, hence not provide the right incentives. Insurance companies are also exposed to the transition risks.

While this consultation serves to prepare the review of Solvency II, it has to be noted that the European Commission is also preparing a renewed sustainable finance strategy for the 3rd quarter of this year and an upgraded EU Adaptation Strategy for the 4th quarter of this year, with dedicated public consultations.

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[15]↑ The questions in this section address similar issues as the questions in section 3.5. (Improving resilience to adverse climate and environmental impacts) of the consultation on the renewed EU Sustainable Finance strategy which was launched on 8 April 2020. Stakeholders that submit responses to both consultations do not need to reiterate the comments already made in responses to the questions of the consultation on the renewed EU Sustainable Finance strategy.

[16]↑ Opinion on Sustainability within Solvency II, Reference EIOPA-BoS-19/241.

Perils of the natural catastrophe module

The Solvency II standard approach for the calculation of capital requirements for natural catastrophes covers the most common types of natural catastrophes, namely windstorm, flood, hail, earthquake and subsidence. Where an insurance company uses an approved internal model for the calculation of the capital requirements, either on own initiative or on request by the national authority, additional types of natural catastrophes can be covered in the calculation of capital requirements. However, a large number of insurance companies, in particular most small and medium-sized ones, are currently not using an internal model for the calculation of natural catastrophe risk.

Question 36: Are there additional types of natural catastrophes that might become relevant to the broader insurance sector in the next years and therefore warrant an inclusion in the standard approach for the calculation of capital requirements (e.g. drought or wildfire)?

- ○ Yes, and sufficient data is available for the calibration of capital requirements for the additional types of natural catastrophes
- ◉ Yes, but the calibration of capital requirements is not possible at this stage, as the data will only become available over the next years
- ○ No, additional types of natural catastrophes will continue to have lesser relevance for insurers, and they can be addressed by internal models and qualitative requirements ("Pillar 2").
- ○ Don't know/no opinion

Please elaborate your answer to question 36:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe's reply. Additionally, we observe that in certain Member States, draught or wildfires are an issue, the costs for property insurance are still uncertain. Furthermore, the legal situation (including terms and conditions) in the various Member States is different i.e. who will pick up the costs of the events. Further work should be done to really assess the actual damages and possible claims following these events. Only after a careful analysis, proposals can be made.

Use of historical data

Solvency II sets out several requirements on the use of data in the valuation of liabilities to policyholders. Notably, the data should contain "sufficient historical information" and "appropriately reflect the risks" to which the insurance company is exposed[17]. In business lines materially affected by climate change, historical data may not capture sufficiently the trends caused by accelerated climate change. EIOPA therefore recommends that insurers combine historical data with knowledge gained from recent scientific research and, where appropriate, the output of forward-looking models when valuing their liabilities towards policyholders.

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[17]↑ See Article 19 of Commission Delegated Regulation (EU) 2015/35.

Question 37: Beyond the general rules on the use of data, should Solvency II rules explicitly require insurers to assess whether the data used in the valuation of liabilities to policyholders captures sufficiently trends caused by climate change?

- ( ) Yes, and requiring this assessment is of high importance
- ( ) Yes, and requiring this assessment is of medium importance
- (x) Yes, but requiring this assessment is of low importance
- ( ) No
- ( ) Don't know/no opinion

Solvency II allows insurance companies to use internal models for the calculation of capital requirements after approval by the supervisory authority. For that purpose, the insurer has to forecast the probability distributions for the relevant risks. Similar rules apply to the data used in the probability distribution forecast in the context of internal models as for the valuation of liabilities towards policyholders[18].

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[18]↑ See Article 231 of Commission Delegated Regulation (EU) 2015/35.

Question 38: Beyond the general rules on the use of data, should Solvency II rules explicitly require insurers to assess whether the data used in an internal model captures sufficiently trends caused by climate change?

- ○ Yes, and requiring this assessment is of high importance
- ○ Yes, and requiring this assessment is of medium importance
- ◉ Yes, but requiring this assessment is of low importance
- ○ No
- ○ Don’t know/no opinion

Scenario analysis

Scenario analyses are common practice for insurers’ risk management to challenge the plausibility of balance sheet valuation and the level of capital requirements. EIOPA also recently recommended that insurers should conduct analyses of climate scenarios as part of their risk management.

Question 39: Should Solvency II rules for insurers explicitly require climate scenario analyses as part of the qualitative rules ("Pillar 2")?

- ○ Yes, and climate scenario analyses are of high importance
- ○ Yes, and climate scenarios analyses are of medium importance
- ◉ Yes, but climate change scenario analyses is of low important
- ○ No
- ○ Don’t know/no opinion

Please explain what opportunities and challenges you foresee for the insurance industry when it comes to climate scenario analyses including, for example, whether standardisation of these scenarios would be useful:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe’s reply.

Impact underwriting

EIOPA recently suggested that insurers engage in 'impact underwriting', whereby insurers develop new insurance products, design and price products with the aim to contribute to adaptation to and mitigation of climate change without disregard for actuarial risk-based principles of risk selection and pricing.

Question 40: In your view, does Solvency II contain rules that prevent the practice of impact underwriting by insurers?

- ○ Yes
- ◉ No
- ○ Don't know/no opinion

Question 41: Do you have proposals for changes others than those provided in your answers to Question 5 and Questions 36 to 40 that would make Solvency II a more conducive framework for sustainable activities by insurance and reinsurance companies?

3000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe's reply.

B. Challenges arising from digitalisation and other issues

While this consultation serves to prepare the review of Solvency II, the European Commission organised between 19 December 2019 and 19 March 2020 a consultation on the need for legislative improvements to make the financial sector more secure and resilient against cyberattacks[19].

In addition, the European Commission is also preparing a new Digital Finance Strategy for Europe that sets out strategic objectives that should guide public policy in the coming five years. This new strategy planned for the third quarter of 2020 will build on the work carried out previously, in particular in the context of the FinTech Action Plan. It will take into consideration all the recent market and technological developments that are likely to impact the financial sector in the near future. A separate public consultation[20] took place between 3 April 2020 and 26 June 2020.

Insurance companies increasingly rely on Big Data analysis in order to set prices and customise insurance product offering for policyholders. While such innovations could provide some potential benefits to policyholders, they also raise questions about privacy, discrimination, fairness and exclusion.

In the context of the digitalisation of the economy, cyber risk has gained increasing relevance as one of the main – if not the top – operational risks faced by organisations. The increasing frequency and sophistication of cyber-attacks and the continued digital transformation and use of new technologies also make insurers increasingly exposed to cyber threats. In addition, there is a rising demand by businesses and individuals for insurance protection against internet-based risks, for instance to cover losses from data or network security breaches, and theft of intellectual property (so-called "cyber-insurance"). While insurers have to be granted authorisation for conducting business in various "classes" of insurance, there is no specific authorisation process (or dedicated reporting requirements) for cyber-insurance products.

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[19]↑ More information on the public consultation on the need for legislative improvements to make the financial sector more secure and resilient against cyberattacks.

[20]↑ More information on the public consultation on a new digital finance strategy for Europe.

Question 42: Should the European legislation introduce enhanced requirements for insurers to monitor and manage information and communication technology (ICT) risks, including cyber-risks as part of their risk management practices ("Pillar 2")?

- ○ Yes
- ● No
- ○ Don't know/no opinion

Question 43: Should the European legislation consider that cyber-insurance is a distinct class of insurance, which would need to be subject to its own authorisation process by public authorities?

- ○ Yes
- ● No
- ○ Don't know/no opinion

Insurance companies may decide to conclude an agreement with another entity (for instance a FinTech company), by which the latter performs certain activities, which would otherwise be performed by the insurance company itself (for instance, in relation to IT services).

Insurance companies can also outsource these activities to another entity belonging to the same insurance group. Solvency II does not differentiate intra-group and extra-group outsourcing, in terms of requirements. Some stakeholders claim that intra-group outsourcing, in particular in the area of digital services, should be "lighter", as insurance groups are treated and managed as integrated economic entities and are subject to all Solvency II requirements on a consolidated basis.

Question 44: Should the legislation differentiate intragroup and extra-group outsourcing, and introduce "lighter" requirement in the former case?

- ○

Yes, but the lighter requirements should be conditioned to the satisfaction of some criteria at the level of the group, for instance appropriate centralised risk management processes and internal control mechanisms of the group

- [x] Yes, and those lighter requirements should not be conditioned to any additional criterion
- [ ] No
- [ ] Don’t know/no opinion

Please specify which requirements should be alleviated in the case of intra-group outsourcing:

2000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support Insurance Europe’s reply.

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) here:

Please upload your file

The maximum file size is 1 MB.
You can upload several files.
Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

1c93dae0-f451-4b0a-a6d5-940eb131f984/Annex_public_consultation_Solvency_II.pdf

Useful links

More on this consultation (https://ec.europa.eu/info/publications/finance-consultations-2020-solvency-2-review_en)

Consultation document (https://ec.europa.eu/info/files/2020-solvency-2-review-consultation-document_en)

More on Solvency II (https://ec.europa.eu/info/business-economy-euro/banking-and-finance/insurance-and-pensions/risk-management-and-supervision-insurance-companies-solvency-2_en)

Specific privacy statement (https://ec.europa.eu/info/law/better-regulation/specific-privacy-statement_en)

More on the Transparency register (http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)

Inception impact assessment (https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12461-Review-of-measures-on-taking-up-and-pursuit-of-the-insurance-and-reinsurance-business-Solvency-II-#publicatic details)

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