

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

**Deadline
31 August 2017
23:59 CET**

Name of Company:	Insurance Europe	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ 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 <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, <u>in Word Format</u>, to CP-17-004@eiopa.europa.eu</p> <p>Our IT tool does not allow processing of any other formats.</p> <p><u>The numbering of the reference refers to the sections</u> of the consultation paper on EIOPA's first set of advice to the European Commission on specific items in the Solvency II Delegated Regulation. Please indicate to which paragraph(s) your comment refers to.</p>		
Reference	Comment	
General Comment	<p>Insurance Europe welcomes the initial review of the Solvency II regulatory framework and supports its main goals, namely:</p> <ul style="list-style-type: none"> • to ensure a proportionate and technically consistent supervisory regime for (re)insurance undertakings; and • to look for possible simplifications in the SCR standard formula and to ensure the proportionate application of the requirements. 	

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Insurance Europe acknowledges the good progress that EIOPA has made towards achieving these goals through its proposals outlined in the first set of advice. However, it believes that additional work is required in a number of areas to achieve an optimal outcome to the review project. For example, Insurance Europe believes that the analysis of the LAC DT does not provide a complete picture of the issues and caution should be used when drawing conclusions from this analysis.

Insurance Europe has provided detailed feedback on the proposals addressed in EIOPA's first set of advice. It further looks forward to working in collaboration with EIOPA, and other stakeholders, on the remaining topics due to be addressed in its second set of advice.

Simplified Calculations - Insurance Europe welcomes the simplified approaches that are introduced, which should allow for a wider and more consistent application of proportionality in practice. However, Insurance Europe does not support EIOPA's views on a number of items further detailed in the response. In particular, Insurance Europe believes EIOPA is entitled to address the level of mass lapse risk.

Reducing reliance on ECAs in the standard formula - Insurance Europe welcomes EIOPA's investigations into alternatives for insurers to using nominated ECAs for supervisory purposes, such as internal credit assessment models and the use of third-party commercial and non-commercial providers. Insurance Europe appreciates the proposed simplification within the remit of Article 88 of the Delegated Regulation. However, Insurance Europe cautions that an overly prudent approach to allowing the use of this simplification may make it not workable in practice.

Treatment of guarantees, exposure guaranteed by a third-party and exposures to regional governments and local authorities (RGLAs) - Insurance Europe supports EIOPA's proposed changes, namely:

- Extending the recognition of RLGA guarantees in the spread and concentration risk sub-modules and to Type 2 exposures in the counterparty default risk module.
- Recognising partial guarantees in the context of Type 2 exposures in the counterparty

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default risk module.

- Recognising RGLA guarantees which are not listed in ITS (EU) 2015/2011 and the associated capital charges.

However, Insurance Europe expresses caution regarding the approach taken to harmonising the list of qualifying RGLAs between the banking and insurance regulations, as this may introduce an overly granular and rigid approach to determining the equivalence between RGLAs and central governments, contrary to the intention of Article 85 of the Delegated Regulation.

Additionally, Insurance Europe supports the spirit of EIOPA's proposed changes to the articles in the Delegated Regulation. However, Insurance Europe suggests changes to the LGD formula, a full exclusion from compliance with Article 215 (f), and the deletion of the last sentence of Recital 42 in the Delegated Regulation to avoid confusion .

Risk-mitigation techniques - Insurance Europe supports the proposals put forward by EIOPA to refine the restriction on the replacement frequency of risk-mitigation techniques and to alter the requirements for the partial recognition of risk-mitigation provided by a reinsurer temporarily in breach of the its SCR. However, it believes further work is needed to improve the recognition of Adverse Development Covers and Finite Reinsurance.

Look-through approach: investment related vehicles - Insurance Europe welcomes EIOPA's work done on the extension of the look-through approach to related undertakings. It broadly supports the criteria and definition of an "investment related undertaking" proposed by EIOPA. However, additional work is required to ensure that the application of the look-through approach can be implemented in a proportionate manner.

Undertaking specific parameters - Insurance Europe remains strongly supportive of the use of USPs which, together with the proportionality principle, are meant to ensure that Solvency II works for all companies, irrespective of their size (SMEs, monoliners). However, despite some improvements proposed by EIOPA, Insurance Europe remains concerned by the restricted scope of USPs in terms of areas of application as currently defined in the Delegated Regulation.

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	<p>In addition, Insurance Europe is concerned that EIOPA advises against the introduction of new standardised methods and also rejects any amendments to the current data requirements, which are very stringent and thereby are not conducive to a wider use of the USPs.</p> <p>Insurance Europe strongly believes that the scope of USPs should not be restricted to certain areas, as is currently set out in the Delegated Regulation, but rather expanded to life, health, non-life catastrophe and even operational risk. This enlargement to all areas permitted by the Solvency II Directive is in Insurance Europe's view necessary for Solvency II to be workable for all undertakings regardless of their size, including SMEs/mono liners.</p> <p>Loss-absorbing capacity of deferred taxes (LAC DT) - Insurance Europe notes that the Commission has requested EIOPA to report on the various methods currently applied across Europe with regards to the loss absorbing capacity of deferred taxes (LAC DT) and on their impact. Insurance Europe therefore believes that, by submitting its analysis, EIOPA will have fully delivered on its mandate and no further action is necessary.</p> <p>Insurance Europe believes a "one size fits all" view on the calculation of LAC DT is not appropriate, and this is demonstrated by the weak correlations in the data analysis by EIOPA. Therefore, Insurance Europe's view is that standardisation of the calculation of LAC DT is not necessary, nor is any additional guidance required.</p>	
1	<p>Insurance Europe welcomes the initial review of the Solvency II regulatory framework and supports its main goals, namely;</p> <ul style="list-style-type: none"> • to ensure a proportionate and technically consistent supervisory regime for (re)insurance undertakings; and • to look for possible simplifications in the SCR standard formula and to ensure the proportionate application of the requirements. <p>Insurance Europe acknowledges the good progress that EIOPA has made towards achieving these</p>	

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	<p>goals through its proposals outlined in the first set of advice. However, it believes that additional work is required in a number of areas to achieve an appropriate outcome of the review project. For example, Insurance Europe believes that the analysis of the LAC DT does not provide a complete picture of the issues and caution should be used when drawing conclusions from this analysis.</p> <p>Insurance Europe has provided detailed feedback on the proposals addressed in EIOPA's first set of draft advice. It further looks forward to working in collaboration with EIOPA, and other stakeholders, on the remaining topics due to be addressed in its second set of advice.</p>	
2.1	<p>Insurance Europe welcomes the Commission's request for EIOPA to investigate the simplified calculations provided for specific sub-modules and risk modules, as well as the criteria that insurance and reinsurance undertakings would be required to fulfil in order to be entitled to use simplifications.</p> <p>As proportionality is an overarching principle of Solvency II, Insurance Europe welcomes all simplified approaches that are introduced, which should allow for a wider and more consistent application of proportionality in practice.</p>	
2.2		
2.3	<p>Paragraph 18 Insurance Europe welcomes the clarification that the assessment of the model error needs not be quantitative by default. However, to avoid uncertainty on the part of the (re)insurer and promote convergence of practices among the NSAs community, Insurance Europe proposes the following redrafting suggestion: "[...]It is acknowledged that the quantitative evaluation may be challenging, but (re)insurance undertakings may, as a first step, perform a qualitative evaluation and if that indicates that the deviation is not significant a quantitative assessment would not necessarily be required."</p> <p>Paragraph 19 Insurance Europe agrees with EIOPA that the documentation of the assessment of model error</p>	

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introduced by a simplification is not preventing its use, but continues to believe that the administrative burden is unnecessarily high and therefore restrictive.

The difference of opinion between EIOPA and the industry on this topic suggests that there may be a divergence of acceptable practices across supervisors. Insurance Europe, therefore, believes it may be justified for EIOPA to provide some guidance to supervisors on what constitutes a suitable assessment.

Paragraphs 22 & 23
Insurance Europe does not support EIOPA's view that a wider than prescribed use of simplified calculations would amount to operating within an internal model framework. In fact, Insurance Europe believes that there are at least two instances (see below) for which the burden of proof could be far below that required within an internal model framework. Therefore, in addition to the simplifications that will be expressly listed in the legal texts, the Delegated Regulation should allow companies to take one of the following options to simplify their calculations as part of the proportionality principle:

- set the SCR to zero for any risk to which they have no exposure.
- set the SCR to a fixed amount that they can show is no less prudent than the standard formula.

Paragraphs 27
Insurance Europe appreciates that EIOPA suggests a way forward for a simplified calculation for non-life lapse risk that would alleviate the strong operational challenge of applying the discontinuance of 40% on a policy by policy basis. The suggestion to base the calculations on the same homogeneous risk groups that are used for the calculation of the best estimate (as EIOPA explains under paragraphs 61 & 68) is seen as an improvement. However, Insurance Europe continues to believe that EIOPA should consider removing the lapse risk within the non-life underwriting risk sub-module from the standard formula as this sub-module adds unnecessary complexity for a risk that is immaterial for non-life business.

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In addition, Insurance Europe reiterates that there is a double counting of lapse risk between the lapse risk module and the premium risk module which needs to be addressed. This is because the calibration of the premium risk module was based on historical premium volumes which also included the effect of lapses. If a separate risk module for lapses is kept, then the calibration of the premium risk must be recalculated based on data from which lapses have been removed. Finally, there is no justification of the stress factor of 40 %.

Paragraphs 30 & 31

Insurance Europe welcomes the new simplifications introduced for life and health similar to life lapse risk (as EIOPA explains under paragraphs 54 & 72), which support a wider and more consistent application of the proportionality principle.

Regarding the appropriateness of the level of the mass lapse risk, Insurance Europe disagrees with EIOPA's assessment that it is beyond the scope of the call for advice of the European Commission and believes that all calculations are in scope as evidenced by the following excerpt of the call for advice:

EIOPA is asked to:

- *Suggest improvements for the existing **simplifications** and explore and propose methods and criteria for further simplifications, in order to ensure that simple and easy to apply methodologies **are provided for all standard formula calculations**, bearing in mind the need to strengthen a proportionate application of the requirements.*

Moreover, EIOPA states that the materiality of the mass lapse could be assessed at a later stage with the help of the annual QRTs. In Insurance Europe's opinion, the relevant QRTs (S.26) will only inform on the contribution of the mass lapse to the SCR, not on the materiality of the risk. The contribution of the mass lapse to the SCR is bound to be high since the calibration of the risk is unrealistically high.

Paragraphs 31

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	<p>Insurance Europe welcomes the new simplification introduced for the mortality sub risk module, which supports a wider and more consistent application of the proportionality principle.</p> <p>Paragraphs 33 & 34 Insurance Europe welcomes that EIOPA envisages new simplified approaches for the spread risk and the concentration risk sub-modules, as well as on the look-through, and it looks forward to assessing proposals that EIOPA will put forward in the second draft advice.</p>	
2.4		
2.4.1		
2.4.2	<p>Paragraphs 45 to 47 Insurance Europe welcomes the clarification regarding the assessment of the model error in paragraphs 45 & 46, notably in paragraph 46 second sentence "<i>[...] In particular, where a qualitative evaluation indicates that the error is immaterial there is no need to evaluate the error in quantitative terms.</i>"</p> <p>However, Insurance Europe highlights that it is often challenging to provide a qualitative assessment that meets supervisors' expectations. It, therefore, continues to believe that concerns about the burdensome nature of the proportionality assessment remain valid in contrast to EIOPA's statement in paragraph 47.</p> <p>Paragraphs 52, 54 & 61 Insurance Europe welcomes the proposed simplified approaches on mortality, longevity, and lapse risks, which consist of basing the calculations on the same homogeneous risk groups that are used for the calculation of the best estimate.</p> <p>Paragraphs 58 Insurance Europe welcomes the slight adjustment to the existing simplification for the mortality risk.</p>	

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2.4.3	<p>Paragraphs 66 Insurance Europe welcomes the clarification. See the comments provided to paragraphs 45 & 46.</p> <p>Paragraphs 67 to 74 See the comments provided to paragraphs 52, 54 & 61.</p> <p>Paragraphs 76 See the comments provided to paragraph 58.</p>	
2.4.4		
3.1	Insurance Europe welcomes EIOPA's investigations into alternatives for insurers to use alternatives to nominated ECAs for supervisory purposes, such as internal credit assessment models and the use of third-party commercial and non-commercial providers. Insurance Europe further welcomes the proposed simplification within the remit of Article 88 of the Delegated Regulation, specifically in relation to insurers' debt portfolios. However, Insurance Europe cautions that an overly prudent approach to allowing the use of this simplification may be make it not workable in practice.	
3.2		
3.3	<p>Paragraph 90 Insurance Europe welcomes EIOPA's investigation into whether third parties other than nominated ECAs should be allowed to perform credit assessments for regulatory and supervisory purposes. This would encourage more competition in the market for credit assessments and thus potentially lower the costs for insurers. Reducing dependence on CRAs is of particular importance since the three largest credit rating agencies have increased licensing fees substantially in recent years.</p> <p>Paragraph 97 to 98 Insurance Europe welcomes EIOPA's recognition of the value of insurers developing internal credit measures and ratings for certain asset classes. Future guidance should, therefore, not restrict the</p>	

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various analytical approaches currently used by insurers to review external credit ratings.

Development of internal credit assessments requires specific expertise, access to a wealth of internal information and ability to make use of economies of scale. Therefore, a number of insurers will continue to rely on external credit risk assessments. However, encouraging the voluntary development and use of proprietary credit risk assessments is an important step to achieving a viable alternative and supporting the development of credit risk models by those insurers who are willing and able to develop expertise and commit the necessary resources. Such initiatives should be closely monitored by the NSAs to assess comparability of Solvency II data.

In fact, Insurance Europe believes that, at least as part of the second call for advice, EIOPA should not only develop high-level guidance, but also investigate and potentially aim to replicate what some NCAs (such as the Deutsche Bundesbank) have done in the banking regulation, by for example recognising some credit risk rating sources as eligible for the purpose of the standard formula calculation. EIOPA could then aim to publish a public, free-to-use credit assessment model, which may be used as a starting point for insurers who are considering developing such capabilities. Ideally, such models would not rely solely on accountancy metrics and qualitative considerations, but also on a default approach (ie using probability of default and loss-given-default parameters as inputs).

Paragraph 104 to 107
Insurance Europe welcomes EIOPA's conclusion that **market spreads** are unsuitable for replacing ECAI assessments. Insurance Europe believes that:

- A formulaic market-based ratings approach would not be able to reflect the actual risk profile of an asset/entity as it would incorporate elements unrelated to credit quality, such as market sentiment, rumours, central bank purchasing activities, and could therefore be pro-cyclical.
- Furthermore, pricing information, eg credit default swap spreads, is only available for a limited number of instruments, and such market pricing is often (and increasingly) also reflective of non-credit specific elements such as (il)liquidity. This makes pricing information

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	<p>less meaningful from a pure credit perspective.</p> <p>With regard to accountancy-based measures, Insurance Europe notes that these may be appropriate, particularly in the context of private debt placements, whereby a corporate borrower is seeking financing as part of a marketplace which has certain lending standards in place (eg the German Schuldschein market or the French Euro PP market).</p> <p>Important downfalls have to be kept in mind, however, in respect of accountancy-based measures. For example, financial ratios often only reflect past data and performance of companies and sometimes fail to recognise business prospects, although investment analysis often involves trend analysis and forward projections of borrowers' certain financial statement items. Meaningful covenants can mitigate the downfalls of accountancy-based measures.</p> <p>Paragraph 110 Insurance Europe believes the example included in this paragraph is not appropriate, as the LTG measures are a valid part of the Solvency II framework and are rightfully used in the calculation of the Solvency II ratio.</p>	
3.4		
3.4.1		
3.4.2	<p>Paragraphs 113 to 117 Please refer to comments on paragraph 90.</p> <p>Paragraphs 118 to 131 Insurance Europe welcomes EIOPA's proposal around the use of ECAs for standard formula users and, in particular, enabling insurers to transpose a CQS3 rating to parts of their debt portfolio, not covered by contracted ECAs. Insurance Europe agrees that this may lead to a reduction in costs for insurers and reduce the duplication of ratings (where standard contracts cover overlapping parts of insurers' portfolios). However, Insurance Europe notes that instead of being considered a</p>	

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simplification under Article 88, the proposal should be reframed as a general rule, applicable to all insurers. Under this rule, only the instruments covered by the rule that do not meet the suggested criteria would be classified as non-rated debt (and thus receive CQS 3).

Additionally, Insurance Europe believes that EIOPA should review the restrictions which it introduces to the use of the proposed approach, and in particular:

- The type of bond allowed (and the restriction to fixed interest bonds only) – insurers invest in a wide variety of corporate bonds, and not only fixed interest ones. For example, floating rate bonds do not represent complex products, yet will not be in the scope of the simplification due to this restriction. If EIOPA believes that non-fixed rate corporate bonds present a significantly riskier instruments than fixed rate corporates, it should present evidence to substantiate such conclusions.
- The proposal should not automatically exclude plain vanilla (rated) loans or loans with appropriate guarantees/collateral.
- A minimum coverage ratio, above which the simplification should apply – please refer to Insurance Europe's comments on paragraphs 143 to 146.

EIOPA should note that if overly stringent conditions are applied when attempting to qualify for the proposed treatment, it may end up not being taken up by the market, so potential intended effects may fail to materialise.

Insurance Europe considers as inappropriate the exclusion of portfolios with elements of profit participation. This exclusion makes the advice inapplicable for the majority of insurers' investments. Insurance Europe does not see the logic for this condition and suggests to remove it.

Paragraph 132

Insurance Europe agrees that a requirement for all insurance companies to develop internal rating procedures would be disproportionate. Additionally, Insurance Europe notes that external credit assessments also have certain advantages over internally produced assessments, including freedom from the perception of bias. Please also refer to comments on paragraphs 97 to 98

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Paragraph 133 to 139

Please refer to comments on paragraphs 97 to 98

Paragraphs 140 to 142

Please refer to comments on paragraphs 104 to 107

Paragraphs 143 to 146

Insurance Europe supports the proposal.

Paragraph 144

Insurance Europe supports the simplification EIOPA has put forward, however, it believes that instead of being considered a simplification under Article 88, the proposal should be reframed as a general rule, applicable to all insurers. Insurance Europe would argue that 70% is a sensible cut-off point for applying the approach.

However, Insurance Europe believes the suggested conditions (paragraph 144) are too restrictive. Insurance Europe believes the second condition should only apply to material investments. The third condition, stipulating the exclusion of undertakings having liabilities which provide mechanism of profit participations and undertakings conducting unit-linked business, makes the advice inapplicable for the majority of insurers' investments. Insurance Europe does not see the logic for this condition and suggests to remove it.

Insurance Europe highlights that the current writing of this paragraph seems to suggest that undertakings that 'provide mechanism of profit participation' and/or 'conduct unit-linked or index linked business' will not be able to use the proposed simplifications at all, even if unit-linked business is only a small part of their product offering. Likewise, the proposed simplification seems to exclude undertakings with a Matching Adjustment from using the simplifications, even for business outside their Matching Adjustment portfolios that would otherwise meet all the criteria. Insurance Europe believes this is not reasonable.

3.4.3

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	<p>Paragraph 147 Please refer to comments on paragraphs 97 to 98.</p> <p>Paragraph 148 See comments to paragraphs 104 to 107.</p>	
4.1	<p>Insurance Europe supports the EC's call for advice from EIOPA to investigate the current Solvency II treatment of guarantees and exposures to RGLAs.</p> <p>Against this background, Insurance Europe supports EIOPA's proposed changes, namely:</p> <ul style="list-style-type: none"> • Extending the recognition of RLGA guarantees in the spread and concentration risk sub-modules and to Type 2 exposures in the counterparty default risk module. • Recognising partial guarantees in the context of Type 2 exposures in the counterparty default risk module • Recognising RGLA guarantees which are not listed in ITS (EU) 2015/2011 and the associated capital charges <p>However, Insurance Europe expresses caution regarding the approach taken to harmonising the list of qualifying RGLAs between the banking and insurance regulations, as this may introduce an overly granular and rigid approach to determining the equivalence between RGLAs and central governments, contrary to the intention of Article 85 of the Delegated Regulation.</p> <p>Additionally, Insurance Europe supports the spirit of EIOPA's proposed changes to the articles. However, Insurance Europe suggests changes to the LGD formula, a full exclusion from compliance with Article 215 (f), and the deletion of the last sentence of Recital 42 in the Delegated Regulation to avoid confusion.</p>	
4.2		
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4.4.1	<p>Paragraphs 168 to 169 Insurance Europe welcomes the advice of EIOPA in paragraph 168 and 169 with respect to recognising guarantees and extending them to mortgage loans.</p>	
4.4.2	<p>Paragraphs 174 to 177 Insurance Europe strongly supports EIOPA's recognition that the current definition of guarantees issued by RGLAs is not appropriate in the Solvency II regulation. Therefore, Insurance Europe supports EIOPA's advice to extend this recognition to the market risk module, namely in the spread and concentration risk sub-modules.</p> <p>Such a recognition will materially improve the extent to which RGLAs are appropriately recognised in the SCR calculation, given that, as EIOPA indicates, most of the debt guaranteed by RGLAs falls in fact within the scope of the market risk module.</p> <p>In addition to EIOPA's proposed measures for recognising RGLA guarantees, stated out in paragraph 226 of the consultation paper, and in order to avoid possible confusion, Insurance Europe proposes that the last sentence of Recital 42 in the Delegated Regulation is deleted as follows:</p> <p><i>"When setting up lists of regional governments and local authorities, EIOPA should respect the requirement that there is no difference in risk between exposures to these and exposures to the central government in whose jurisdiction they are established because of the specific revenue raising powers of the former and that specific institutional arrangements exist, the effect of which is to reduce the risk of default. The effect of the implementing act adopted pursuant to Article 109a(2)(a) of Directive 2009/138/EC relating to these lists is that direct exposures to the regional governments and local authorities listed are treated as exposures to the central government of the jurisdiction in which they are established for the purposes of the calculation of the market risk module and the counterparty default risk module of the standard formula."</i></p>	

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Insurance Europe agrees with EIOPA’s justification that due to the requirements on equivalence between central governments and RGLAs in terms of revenue raising powers, as laid out in Article 85 of the Delegated Regulation, exposures to debt guaranteed by entities listed in Implementing Regulation (EU) 2015/2011 should receive the same capital charge as exposures to central government.

Paragraphs 178 to 183

As a preliminary view, Insurance Europe supports the approach to devising the list, taken in Implementing Regulation 2015/2011 (complementing the Solvency II Directive), which allows for broader RGLA categories and is more “principle-based”. This allows for some flexibility in determining the RGLAs that qualify for equivalence with central governments. Against this background, Insurance Europe would like to urge EIOPA to engage and consult with the industry with respect to any potential alignment work.

Furthermore, Insurance Europe agrees that the differences between the RGLA list of Implementing Regulation (EU) 2015/2011 and the RGLA list in the banking framework are not justified and need to be removed. However, the alignment of both lists must not lead to the lowest common denominator but instead consider at least all RGLAs already covered by either the insurance or the banking framework. As mentioned earlier, such a list always comes with the caveat that it needs regular updates and that there might be situations in which an undertaking invests in an RGLA not yet covered by the list. Consequently, the undertaking would then be unable to benefit from a lower capital requirement. The same is true for an instrument guaranteed by such a RGLA. To eliminate the disadvantage of a quite inflexible list we propose that the new list should be non-exhaustive and there should be the possibility to add RGLAs in close collaboration with the national competent authority. Going forward, EIOPA should regularly update the list with RGLAs that have been approved by national competent authorities in the meantime.

As the list in the Implementing Regulation (EU) 2015/2011 currently only covers RGLAs within the EEA, undertakings should be allowed to add non-EEA RGLAs as well. This could also be achieved

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by the introduction of a non-exhaustive list as described above where undertakings are referred to their NCAs for an individual assessment of each added RGLA. As things develop, EIOPA should supplement the list with non-EEA RGLAs within the scope of regular updates. Excluding non-EEA RGLAs would unnecessarily restrict undertakings' investment options and hamper further diversification of assets. Besides, the Delegated Regulation does not explicitly exclude non-EEA RGLAs and that's why these need to be considered in the European Commission's current call for advice. In addition, non-EEA RGLAs of eg Canadian provinces benefit from the same treatment as Canadian government bonds under the banking regulation. No change would leave the insurance sector with a disadvantage compared to banks.

Paragraphs 184 to 191

Insurance Europe supports the introduction of the intermediate treatment in the Solvency II Delegated Regulation, whereby there is recognition of RGLA guarantees which would receive a rating of CQS 2, in line with non-EEA government bonds. Insurance Europe appreciates EIOPA's recognition that a significant portion of RGLA guarantees falls outside the scope of the Implementing Regulation (EU) 2015/2011 (as per EIOPA's materiality assessment to the tune of €42bn).

Such a provision would ensure:

- A level playing field in financial markets between insurers and banks. [Such a level playing field would actually mean a measurement of RGLA risk based on the assets' intrinsic characteristics rather than who the asset holder is.](#) Otherwise, the latter may be able to achieve more competitive pricing for RGLA-guaranteed assets, due to a more favourable prudential treatment.
- A more accurate reflection of risks, which are currently overstated for RGLA exposures falling outside the scope of ITS (EU) 2015/2011, as they are currently treated as normal corporate bonds without any guarantees.

Based on the Delegated Regulation and EIOPA's proposal Insurance Europe assumes that RGLAs not on the list, either EAA or non-EEA, will be subject to the intermediate treatment and therefore

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benefit from a lower capital requirement as proposed by EIOPA. Insurance Europe would welcome clarification on the treatment of non-EEA RGLAs with respect to supplements of the list and intermediate treatment.

Paragraphs 192 to 208

Insurance Europe supports EIOPA's assessment about the necessity to extend the recognition of full and partial guarantees from central governments and RGLAs in ITS (EU) 2015/2011 to Type 2 exposures in the counterparty default risk module.

This is a key step to guaranteeing a level playing field between banking and insurance company investors in relation to mortgages benefitting from a partial guarantee and prevents market distortions, whereby banks can achieve more competitive pricing due to a more favourable prudential treatment.

However, Insurance Europe would like to point out that it does not fully agree with EIOPA's assessment in paragraph 202 of its advice, which concludes that partial guarantees are already well-reflected in the market risk module, because they will be accounted for in the exposure's CQS. Insurance Europe would like to point out that while this may be true for rated debt, it is not valid for non-rated exposures. Furthermore, the lack of recognition of partial guarantees is inconsistent with the treatment of eg collateralised unrated issues, which are allowed and recognised, as per Article 176 (5) of the Delegated Regulation. The overall effect is an ineffective risk measurement and an overstatement of risk. Therefore, Insurance Europe would like to extend the recognition of partial guarantees by central governments and RGLAs to the market risk module with respect to non-rated issues.

With regard to the recognition of partial guarantees Insurance Europe would also like to draw EIOPA's attention to the fact that this is the only contract design which is allowed for state agencies in eg the Netherlands and Italy. Even if there is currently no liquid market for bonds with partial guarantees by member states or RGLAs, this might change, in particular if EIOPA decides to introduce a recognition of partial guarantees. This would further foster the success of

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infrastructure project bonds which are partially guaranteed by the European Investment Bank (EIB) as well as other initiatives aimed at improving the financing of the real economy. Recognizing partial guarantees is a prerequisite that these bonds can benefit from a more risk-sensitive valuation under Solvency II. EIOPA should therefore put more emphasis on the positive effect that the recognition of partial guarantees can have on the better recognition of the risk/return profiles of these assets, which investors fully support. Referring to the currently relatively low volume of instruments with partial guarantees in undertakings' investment portfolios seems to be no valid argument, as this situation may change.

Furthermore, Insurance Europe supports EIOPA's intention to relax the requirement for a full guarantee in *Article 215 (f)* of the Delegated Regulation in the context of Type 2 exposures in the counterparty risk module. This partial recognition would improve the risk sensitivity of the Solvency II framework, which currently fails to account for the reduction in risk, arising from an existing partial guarantee. This is illustrated by the case of Dutch residential mortgages, which benefit from a partial central government guarantee.

At this point, Insurance Europe would like to highlight three issues regarding EIOPA's proposal for recognising central government guarantees for Type 2 exposures in the counterparty default risk module, such as the Dutch NHG scheme:

LGD proposed formula

In the consultation paper, the following formula is proposed in order to allow for (partial) guarantees under the type 2 counterparty default sub-module:

$$LGD = \max(\text{Loan} - \max(80\% * \text{Mortgage}; \text{Guarantee}); 0)$$

This formula is problematic and it is very unlikely that it will lead to any change to the capital requirements for mortgage loans guaranteed by the NHG. More specifically:

- The NHG guarantee is always partial and meant as a "top-up" above insufficient collateral.

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- For example, if after default the underlying property held as collateral is sold, and the sales proceeds are insufficient to cover the loan, as per [article A1.1](#) and [article B13.2](#), the NHG guarantee will be the difference between sales proceeds and the loan's nominal value (an English version of the NHG general conditions can be found [here](#)).
- Taking into account the second "*max(...)*" in the formula above, in practice the "*Guarantee*" term would very rarely exceed the "*80%*Mortgage*" term, making the "*Guarantee*" term useless.
- EIOPA's formula also implies that the effect of the property held as collateral and the guarantee are mutually exclusive, which is an incorrect assumption. In the NHG case, the guarantee is effectively complementary to the collateral.

The overall effect is that, even though the NHG guarantee clearly reduces the risk for insurance undertakings, the capital charge remains unchanged when the LGD formula proposed in the consultation paper is applied.

Therefore, and as an alternative to EIOPA's proposed formula for LGD, Insurance Europe proposes the following formula for LGD:

$$\text{LGD} = \max(\text{Loan} - (80\% * \text{Mortgage} + \text{Guarantee}); 0)$$

This formula effectively recognises the risk-mitigating effect of the NHG and will further lead to a better alignment with Article 235 of the CRR.

Conditions applicable to partial guarantees

In Article 215 of the Delegated Regulation, the following condition for guarantees is imposed:
"(f) the guarantee fully covers all types of regular payments the obligor is expected to make in respect of the claim."

In the consultation paper, it is proposed that the guarantee should be recognised provided it

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	<p>complies with the requirements of Articles 209 to 215, except for the requirement that it “<u>fully covers ...</u>”</p> <p>Under a strict reading of this proposal, the NHG guarantee scheme may still be disqualified. Indeed, in paragraph 198 of the consultation paper, it is stated that “<i>NHG does not cover all types of regular payments the obligor is expected to make in respect of the claim</i>”. This entails that article 215(f) should <u>entirely be disregarded</u>, not only the requirement that it “<u>fully covers ...</u>”</p>	
4.4.3	<p>Paragraphs 210 to 225 Please refer to Insurance Europe's comments on paragraphs 174 to 207.</p>	
4.4.4	<p>Paragraph 226 Insurance Europe supports the spirit of the proposed articles, however, it suggests changes to the LGD formula described above in its comments on paragraphs 192 to 208, a full exclusion from compliance with Article 215 (f), and the deletion of the last sentence of Recital 42 in the Delegated Regulation.</p> <p>Insurance Europe welcomes EIOPA's proposals for consistent treatment of RGLAs over the counterparty default, spread and concentration risk modules.</p>	
5.1	<p>Insurance Europe welcomes the Commission's request for EIOPA to assess recent developments in risk mitigation techniques and to determine if they are being adequately recognised within the Solvency II framework.</p> <p>It supports the proposals put forward by EIOPA to refine the restriction on the replacement frequency of risk-mitigation techniques and to alter the requirements for the partial recognition of risk-mitigation provided by a reinsurer temporarily in breach of the its SCR. However, it believes further work is needed to improve the recognition of Adverse Development Covers and Finite Reinsurance. Detailed comments on the analysis and proposals provided by EIOPA can be found in sections 5.3 to 5.4.3.</p>	

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5.2

Paragraphs 249 to 264

Insurance Europe believes that Adverse Development Covers (ADCs) are a valid and justifiable form of risk mitigation and should be appropriately recognised within the Solvency II framework.

It appreciates the challenges of incorporating risk mitigation contracts of this nature into the standard formula but is disappointed that EIOPA has dismissed the proposal to include a simple adjustment to the standard formula (option 1 - "RM_other") that would allow to address the non-proportional reinsurance issue to a broader extent than proposing the use of USPs.

Insurance Europe continues to believe that option 1 is the most suitable option for improved recognition of reinsurance under the standard formula. **It would like to clarify that this proposal does not require the introduction of a scenario based component under the premium and reserve risk module.** It continues to believe that this proposal provides a solution which would make the standard formula sufficiently flexible to allow for the recognition of the effective transfer of risk.

Insurance Europe acknowledges that the type of reinsurance cover will determine the complexity of the calculation, should option 1 be implemented (albeit it expects these will not usually be more complex than other calculations within the standard formula). Against this background, Insurance Europe believes that - in addition to implementing option 1 in the Delegated Regulation - complementing guidelines could be helpful for some type of covers in order ensure consistent application and to help undertakings apply the formula. Insurance Europe also notes that this approach would be sufficiently flexible to incorporate future developments, ie accommodate any new types of risk mitigation.

Insurance Europe acknowledges the difficulties highlighted **by EIOPA in its analysis of option 2 put forward by the industry.** However, it continues to believe there is merit in this proposal and would welcome further investigation by EIOPA into how this could be developed to meet the

5.3

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needs of standard formula users.

Insurance Europe notes that the methodology proposed under option 2 does not (intend to) achieve the same level of accuracy as an internal model, a limitation which applies to other areas of the standard formula. It comments on the concerns raised by EIOPA, based on further analysis:

- 1) Potential double counting because the standard formula's parameters for reserve risk are net of reinsurance and the effect has been already taken into account (in the Reported But Not Settled ("RBNS") and Incurred But Not Reported ("IBNR") provisions and the claims paid

While the overall number of ADCs in the market is low, ADCs are usually classified as a "large and material transaction" by companies for their portfolio based on the volume of reserves that is covered. Even where the impact of ADCs has been considered for the calibration of the standard formula parameters (based on few companies in the sample that have used ADCs) the impact on the market average is negligible (close to 0). In other words, if a company applies an ADC, the risk transfer from this transaction is almost entirely in excess of the market average utilisation of reserve risk covers. It notes that for a similar reason, adjustment factors for the impact of non-proportional reinsurance on premium risk (ie 80% for three lines of business) have been introduced. As another option to improve recognition of ADCs, EIOPA could propose to introduce similar (fixed) adjustment factors for reserve risk. However, introducing such a factor would create the same issue with risk sensitiveness as currently exists for the premium factor, which is fixed and therefore not risk sensitive. The benefit of option 2 is that it is simple to implement, given that it is a single calculation with only four variables.

- 2) Potential overestimation of the risk mitigation impact because of modification of the underlying distribution of claims development results and ignorance of alternative equivalent scenarios (derived with the Euler method). EIOPA uses a quantitative example to show the impact

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Insurance Europe understands EIOPA's concern and the limitations that are inherent to the factor based formula. Under the equivalent scenario as used by EIOPA **the ADC results in a 1,358 loss in basic own funds whereas our suggested approach results in a 1,343 loss in absolute terms.** Insurance Europe would like to highlight that, if the ADC attachment point is changed in EIOPA's example to less than 2,100, the proposed methodology would actually result in a higher SCR for reserving risk than the equivalent scenario methodology. Experience suggests that the gap between best estimate reserves and the ADC attachment point rarely exceeds 5% in capital management driven structures due to capital efficiency (ie the cedent would not be provided with a sufficiently significant capital benefit if the gap between reserves and the ADC attachment point exceeds 5% of best estimate reserves).

Below is the table that shows the sensitivity of the difference between the SCR for reserving risk calculated with the methodology that we are proposing and the equivalent scenario using the Euler method:

		ADC attachment								
		2,000	2,050	2,100	2,150	2,200	2,250	2,300	2,350	2,400
ADC exit	2,400	1.9%	1.6%	1.3%	1.0%	0.8%	0.5%	0.3%	0.2%	0.0%
	2,450	2.2%	1.9%	1.6%	1.3%	1.0%	0.8%	0.5%	0.3%	0.2%
	2,500	2.6%	2.2%	1.9%	1.6%	1.3%	1.0%	0.8%	0.5%	0.3%
	2,550	3.1%	2.6%	2.2%	1.9%	1.6%	1.3%	1.0%	0.8%	0.5%
	2,600	3.6%	3.1%	2.6%	2.2%	1.9%	1.6%	1.3%	1.0%	0.8%
	2,660	0.8%	0.4%	0.0%	-0.3%	-0.6%	-0.9%	-1.1%	-1.4%	-1.6%
Delta reserves - ADC attachment (% nominal reserves)		0.0%	2.4%	4.8%	7.0%	9.1%	11.1%	13.0%	14.9%	16.7%

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Insurance Europe therefore believes that the methodology it is proposing is more conservative than the equivalent scenario methodology for most structures.

3) Other issues with the appropriateness of the simple method, ie impact of some dependencies on the effectiveness of the cover:

- **Attachment point:** Insurance Europe agrees that the attachment point has an impact on the level of risk transfer; this issue can be addressed by stipulating a maximum attachment point level (eg ADC attachment should not be too far out of the money) and an exit level of: BE reserves x (1 + 3 x reserving risk factor). This would also ensure that the methodology always results in a more conservative SCR than the equivalent scenario methodology.
- **Percentage of reserves under the cover:** Typically, the volume of reserves that is covered under an ADC is not less than 50% - 70%. Therefore, the effectiveness of the cover in this respect is not an issue.
- **Diversification/business mix of the undertaking:** Insurance Europe proposes to apply the cover pre-diversification, so the formula considers the impact of the diversification according to the assumptions of the standard formula. In this respect our method is not different from existing standard formula methods for other types of reinsurance, eg prospective XL treaties.

Under current USP methods, most ADCs with an attachment point above the BE reserves will not be adequately reflected, for example an ADC that would cap the expected loss under an adverse development that is expected to happen with a frequency of less than 1 in 10 years at the level of the impact that a 1 in 10 years event would have.

Paragraphs 265 to 278

Insurance Europe welcomes EIOPA's admission that a decomposition of risk transfer components

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	would contribute to a more accurate measurement of premium and reserve risk. Therefore, it believes that it is not appropriate that finite reinsurance, or similar arrangements, where the lack of effective risk transfer is comparable to that of finite reinsurance, shall not be taken into account for the purposes of determining the volume measures for premium and reserve risk.	
5.4		
5.4.1		
5.4.2	<p>Paragraphs 281 to 302</p> <p>Insurance Europe supports EIOPA's introduction of the concepts of "exposure adjustment" and "exceptional exposure adjustments" as they bring further clarity around what valid risk mitigation techniques entail and better reflect the hedging practices of insurers.</p> <p>Insurance Europe also supports EIOPA's relaxation of the 3-month minimum rolling requirement and supports the proposed weekly minimum requirement for exposure adjustments. However, Insurance Europe continues to question the need for a minimum maturity requirement as it believes the complementary requirements of Article 209 of the Delegated Regulation are sufficient to restrict the recognition of contractual arrangements to those which are justifiable.</p> <p>Despite the above, Insurance Europe believes that the proposed changes would:</p> <ul style="list-style-type: none"> • Improve the risk sensitivity of the Solvency II framework by enabling insurers to better capture market-standard hedging practices; and • Eliminate artificially created costs for insurers (from having to search for less liquid/less available derivatives to hedge risk). <p>Taken together, these changes would ultimately have a positive effect for policyholders via higher benefits, due to the lower risk & costs to which insurers would be exposed.</p> <p>Paragraphs 305 to 309</p>	

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	<p>Insurance Europe welcomes EIOPA's appreciation of the practical challenges of meeting the provisions of Article 211 (3) of the Delegated Regulation.</p> <p>Insurance Europe strongly supports the continued recognition of risk mitigation provided by a reinsurer who is temporarily in breach of its SCR. It further agrees that recognition is conceptually problematic if a reinsurer is in breach of its MCR.</p> <p>In fact, it is the MCR, not the SCR, that is designed to be the level of capital below which there are clear risks to policyholders. According to the Solvency II Directive:</p> <ul style="list-style-type: none"> • The SCR is "a risk-sensitive requirement, which is based on a prescriptive calculation to ensure accurate and timely intervention by the supervisory authority". • The MCR is defined as the "minimum level of security below which the financial resources should not fall". <p>It is, therefore, correct that recognition continues to be allowable where a reinsurer is temporarily in breach of its SCR but not its MCR.</p>	
5.4.3	<p>Paragraphs 324 to 329</p> <p>Insurance Europe supports EIOPA's proposal to allow the partial recognition of the risk mitigation provided by a reinsurer in breach of its SCR, subject to a number of time-related conditions, but without the provisions detailed in Article 211 (3) of the Delegated Regulation. This removes the requirements which had proved to be problematic, namely to demonstrate that the counterparty has submitted a realistic recovery plan and that compliance with the SCR will be restored within the timeframe prescribed in the recovery plan.</p> <p>Insurance Europe believes that the expiry period set out in paragraph 327 should be aligned with that of Article 138 of the Solvency II Directive, which permits an extension of the six month</p>	

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	<p>recovery period by up to three months subject to approval of the supervisory authorities. The current proposals do not provide recognition of the possibility of an extension to the period.</p> <p>However, it remains unclear whether “disclosure” refers to the disclosure by the reinsurer to the supervisory authority or public disclosure, eg through the reinsurer’s SFCR. The information available to make an assessment of a reinsurer’s SCR is limited to publicly available data. Insurance Europe, therefore, believes that disclosure should be accepted to mean public disclosure and would welcome clarification on this issue from EIOPA.</p> <p>Concerning EIOPA’s suggestion that the period for a partial recognition should be shortened accordingly in case the reinsurance undertaking discloses the date of the SCR breach and this date lies before the disclosure date. There is a high probability that the SCR will be restored in the prescribed time period after non-compliance so that shortening the period for a partial recognition appears not to be necessary.</p>	
6.1	<p>Insurance Europe welcomes the Commission’s request for EIOPA to investigate the extension of the look-through approach to related undertakings. It broadly supports the criteria and definition of an “investment related undertaking” proposed by EIOPA. However, additional work is required to ensure that the application of the look-through approach can be implemented in a proportionate manner. Detailed comments on the analysis and proposals provided by EIOPA can be found in sections 6.3 to 6.4.3.</p> <p>Insurance Europe looks forward to EIOPA’s proposals on simplifications of the look-through approach, expected in EIOPA’s second set of advice.</p>	
6.2		
6.3	<p>Paragraphs 334 to 337</p> <p>Insurance Europe agrees that the identification of related undertakings that are used as investment related vehicles can be determined through existence of a specific mandate and a</p>	

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pure investment role it fulfils. It further agrees that common criteria should be developed to identify these undertakings, rather than through self-determination.

Paragraph 342 & 343

Insurance Europe agrees that investment related undertakings that are leveraged should not be excluded from the scope of the extension. Insurance Europe believes proportionate application is important and materiality thresholds could be introduced. Insurance Europe believes the equity charge approach could be allowed when periodic qualitative and quantitative demonstration of the prudence or conservativeness of the equity charge approach can be provided (see also comments below, see paragraphs 345 - 346,376).

Paragraphs 345 & 346

Insurance Europe supports the arguments put forward in the cost/benefit analysis. The extension of the look-through approach to investment related undertakings is expected to result in improved risk sensitivity, risk management and avoidance of excessive capital charges.

However, it is also likely to result in additional costs and challenges regarding data availability.

Insurance Europe believes that the look-through approach can be the standard approach, however unjustified costs and data challenges can be mitigated or removed by allowing undertakings the option not to apply the look-through approach in the following cases:

1. When the SCR based on a look through approach is lower than the SCR based on a standard formula approach,
2. When the exposure is not material.

Insurance Europe believes that this optionality could be introduced either as part of the change to the legal text or alternatively through a simplification.

Additionally, Insurance Europe notes that undertakings should also be allowed to use the target underlying asset allocation of the related undertaking, in line with article 84(3) of the Delegated Regulation.

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	<p>Paragraph 349 Insurance Europe believes that the application of look-through to investment related undertakings should be the default approach but strongly supports optionality when justified from a prudential perspective.</p>	
6.4		
6.4.1		
6.4.2	<p>Paragraph 355 Insurance Europe notes the feedback from NSAs specifically mentions that exposures to investment related undertakings are immaterial in some markets. It therefore reiterates the need to provide a proportionate calculation option for immaterial exposures.</p> <p>Paragraph 373 See comments provided to paragraph 345 & 346.</p> <p>Insurance Europe welcomes further analysis on simplifications for the look-through approach which are due to be consulted on in as part of the second set of advice. In particular, Insurance Europe believes that the 20% threshold needs to be reviewed to at least a 30% level, and should not apply to unit- or index-linked products, given their very limited impact on SCR.</p>	
6.4.3	<p>Paragraph 374 & 375 Insurance Europe supports the principle of “substance over form” in the application of the look-through approach to investment related undertakings. It further supports the definition of “investment related undertaking” provided by EIOPA subject to the following clarifications:</p> <ul style="list-style-type: none"> • A strict interpretation of the first condition “its purpose is holding assets on behalf of the (parent) insurance undertaking” may exclude many investment related undertakings which do not solely <i>hold</i> assets but actively <i>manage</i> assets. As an example, investment 	

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related undertakings specialised in real estate will not passively hold real estate, but will also construct, lease, refurbish... (ie manage) real estate. Insurance Europe proposes the following clarification, "its purpose is holding or managing assets on behalf of the (parent) insurance undertaking"

- The requirement for the existence of an investment mandate could also be fulfilled by other indicators, such as the purpose outlined in the partnership agreement of the investment related undertaking, the context of its incorporation (as investment vehicle) or internal investment guidelines of the (parent) insurance company.

In addition, Insurance Europe would like to make clear that strategic participations with an investment purpose and, as such, fulfilling the criteria for investment related undertakings should not be excluded from the scope of the investment related undertaking.

Paragraph 376

Insurance Europe highlights that the statement "*The application of the look through approach to "investment related undertakings" should be mandatory, regardless [of] whether it is likely to determine a lower SCR*" is inconsistent with the statement in paragraph 373 where EIOPA assesses it may be sensible to apply the more conservative SCR where an undertaking can prove that SCR applying type 2 equity charge is more conservative. Therefore the statement in paragraph 376 should be modified or deleted.

As noted in the response to paragraphs 345, 346 & 349, Insurance Europe proposes that the application of the look-through approach could be the default approach. However, optionality should be integrated into the framework to enable undertakings to use the existing equity risk capital charge for immaterial exposures or where the SCR based on a look through approach is lower than the SCR based on a standard formula approach. This could be achieved through the use of materiality thresholds and periodic qualitative and quantitative demonstration of the prudence of the equity charge approach.

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	<p>Insurance Europe welcomes the Commission's request for EIOPA to investigate the subset of standard parameters in the life, non-life and health underwriting risk modules that may be replaced by USPs.</p> <p>Insurance Europe remains strongly supportive of the use of USPs which, together with the proportionality principle, are meant to ensure that Solvency II works for all companies, irrespective of their size (SMEs, monoliners).</p> <p>Despite some improvements proposed by EIOPA, Insurance Europe remains concerned by the restricted scope of USPs in terms of areas of application as currently defined in the Delegated Regulation.</p> <p>In addition, Insurance Europe is concerned that EIOPA advises against the introduction of new standardised methods and also rejects any amendments to the current data requirements, which are very stringent and thereby are not conducive to a wider use of the USPs.</p> <p>Insurance Europe strongly believes that the scope of USPs should not be restricted to certain areas, as is currently set out in the Delegated Regulation, but rather expanded to life, health, non-life catastrophe and even operational risk. This enlargement to all areas permitted by the Solvency II Directive is in Insurance Europe's view necessary for Solvency II to be workable for all undertakings regardless of their size, including SMEs/mono liners.</p>	
7.1		
7.2		
7.3	<p>Paragraph 384</p> <p>Insurance Europe believes that the requirements to assess completeness, accuracy and appropriateness of the data are very stringent and therefore disagrees with EIOPA's assessment that there is already enough flexibility in the Delegated Regulation regarding these.</p> <p>As the call for advice precisely calls on EIOPA to assess the criteria that must be met to fulfil these standards, Insurance Europe reiterates the issues and suggestions already provided in its response</p>	

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to the discussion paper regarding ways for relaxing the data criteria as defined in Article 219 of the Delegated Regulation:

Article 219 b and d of the Delegated Regulation pertains to data being capable of being incorporated into the standardised methods. However, the strong requirement in the use of prescribed methods does not allow undertakings to exert their expert judgement through experts (eg actuaries) when dealing with the set-up of the USPs (in terms of data, assumptions and methods). Indeed, data can be not entirely complete for the use of a prescribed method and therefore, the requirements on data criteria can be improved by laying down that expert judgment may be relied upon to deal with this issue (eg selection of a different range for the data, selection of appropriate assumptions and/or statistical/actuarial methods).

In addition, the draft Delegated Regulation sets out already very prescriptive rules on data quality standard. However, these requirements should be such that if a segment or a line of business is not material to the undertaking, the data quality standard could be relaxed. The data criteria should not be counterproductive by setting much too high barriers and thereby limiting or discouraging the use of USPs.

Paragraphs 386 & 387

Insurance Europe has provided the four methods listed for premium risk in its response to the EIOPA discussion paper on the Solvency II review. Insurance Europe would like to point out that the methods were provided not as a replacement of the current method as EIOPA seems to suggest, but rather as additional methods to choose from.

Insurance Europe notes that an extensive assessment of the chosen method is already required and does not believe that the introduction of additional methods would result in significant extra work for undertakings or supervisors. On the contrary, the assessment of more, or other, methods may help to validate the results and strengthen the reasoning of the chosen method.

Paragraph 388

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Insurance Europe does not agree with EIOPA's assessment that the empirical standard deviation is not appropriate.

The current USP method often does not seem appropriate because of over-parametrisation (estimating 3 parameters from a 10- or 15-year time series). Therefore, a robust estimating method like taking empirical standard deviation which concentrates on two parameters is preferable. The second-order effect for the variance can more likely be considered as a LoB-property than a undertaking-specific property. Fixing the mixing parameter delta in advance for every LoB (eg delta = 0 or 1) and then taking standard deviations gives robust and stable results over long term compared to the very sensitive current method.

Paragraph 389

Insurance Europe disagrees with EIOPA that the proposed method has no additional value. Maximum-likelihood estimation is not generally preferable to other methods of estimation. The proposed method is theoretically sound and easier to handle.

Paragraph 390

Insurance Europe references paragraphs 114 to 116 of "[Calibration of the Premium and Reserve Risk Factors in the Standard Formula of Solvency II, Report of the Joint Working Group on Non-Life and Health NSLT Calibration, 5. August 2011](#)" which concludes that existing trends and cycles are part of the systematic component of the claims- and/or premium-process whereas the premium risk only includes a random component.

Insurance Europe therefore believes that proposals are appropriate for undertakings which are able to identify their trends or cycles (eg from long time series). Indeed, the third method proposed does not require the exact formulation of trend/cycle as only their existence is assumed.

Paragraphs 396

Insurance Europe welcomes the introduction in the Delegated Regulation of a USP that would

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cater for the adjustment factor of stop loss reinsurance contracts. This is seen as an improvement, as at this stage only excess of loss reinsurance contracts qualify for the unique method.

Paragraphs 399 & 403

Insurance Europe welcomes that USPs for nat cat will be investigated by the EIOPA CAT WS once simplification and recalibration works are over. Equally, Insurance Europe welcomes that standardised USPs methods for mortality and longevity risks may be considered at a later stage once recalibration works are over. Insurance Europe strongly believes that the scope of USPs should not be restricted to certain areas, as is currently set out in the Delegated Regulation, but rather expanded to life, health, non-life catastrophe and even operational risk. This enlargement to all areas permitted by the Solvency II Directive is in Insurance Europe's view necessary for Solvency II to be workable for all undertakings regardless of their size, including SMEs/mono liners.

Paragraph 407

Insurance Europe believes the stress factor of the mass lapse risk (Article 142(6)) is not appropriate, as there is no clear evidence for the current discontinuance of 40 % of the insurance policies by default and for all types of contracts. Experience from [several European the Swedish insurance markets](#) shows that - in practice - the levels are significantly lower ([see also CEA comments on Ceiops' CP49 on the Mass Lapse from October 2009](#)). Against this background, it should be made possible to use USP's.

-Insurance Europe [believes that EIOPA should consider and investigate alternative approaches for using USPs in the case of lapse risk. One proposes the following possible methodology that should be considered is as follows:](#)

Input data and method-specific data requirements

1. The data for estimating the undertaking-specific mass lapse rate shall consist of the following:
 - on a monthly basis, the number of lapses and number of total policies exposed to lapse risk differentiated by line of business or, if motivated, by homogeneous risk

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groups;

2. The following method-specific data requirements shall apply:

- the data are representative for the lapse risk that the insurance or reinsurance undertaking is exposed to during the following twelve months;
- data are available for at least five consecutive years;

Method specification

In order to calculate the USP for mass lapse risk Insurance Europe would recommend using the following method for each group referred to in paragraph (1) a:

- a) Calculate the observed monthly lapse rates where the lapse rates are given as number of lapses over number of business in force exposed to the lapse risk.
- b) Recalculate the observed monthly lapse rates (mlr) to yearly lapse rates (ylr) by using the formula .
- c) Assume a distribution for the lapse rates and fit the parameters. (Probably a more heavy-tailed distribution than the normal distribution, like the t-distribution)
- d) Calculate the 0.5% and 99.5% quantile.

Paragraphs 411

Insurance Europe disagrees with EIOPA's assessment that there are no valid reasons to review data requirements. In paragraph 384 above Insurance Europe identifies some issues and suggests ways to relax the criteria on data quality.

Similarly, Insurance Europe notes that there are significant concerns on the USPs approval process also. Specifically, at this stage the ITS on supervisory approval of USPs foresee a limit of 6 months, ie on equal footing with the very much more complex process of an Internal model approval. This timeframe is very long and, on top, at the end of the 6 months the USPs cannot be considered as approved if no decision was reached by the supervisor.

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	<p>Overall, the uncertainty of the approval process, combined with the stringency of the data quality criteria, discourages undertakings to take the USPs route.</p> <p>Paragraph 415 See comment provided to paragraph 384 about the mandate given by the call for advice regarding assessing the criteria to be met. Insurance Europe agrees that the Solvency II directive requires NSAs to verify the completeness, accuracy and appropriateness of the data. However, there is flexibility in terms of the criteria that are used to assess these standards as evidenced by that language used in the call for advice, namely: <i>"EIOPA is asked to [...] and assess any criteria with respect to the completeness, accuracy and appropriateness of the data used that must be met before supervisory approval is given. [...]"</i>.</p>	
7.4		
7.4.1		
7.4.2	<p>Paragraph 438 Insurance Europe welcomes the proposal to include a new USP method for stop-loss.</p>	
7.4.3	<p>Paragraph 447 See comment provided to paragraph 415 about the mandate given by the call for advice regarding assessing the criteria to be met.</p> <p>Paragraph 449 See comment provided to paragraph 432. EIOPA contradicts itself with the statement made in paragraphs 403 and 407.</p>	
7.4.4		
8.1	Insurance Europe notes that the Commission has requested EIOPA to report on the various methods currently applied across Europe with regards to the loss absorbing capacity of deferred	

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taxes (LAC DT) and on their impact. Insurance Europe therefore believes that, by submitting its analysis, EIOPA will have fully delivered on its mandate and no further action is necessary.

Insurance Europe highlights that the economic approach underpinning Solvency II, reflected for example in article 207 of the Delegated Regulation, recognises the loss absorbency of deferred taxes, and the ability of future profits to support this. The Delegated Regulation already foresees a “credibility” proof for future profits, which supports the prudent nature of the framework.

The EIOPA report represents a high level summary based on the detailed data gathered by EIOPA. Insurance Europe considers that it is inappropriate to extrapolate and draw any firm conclusions from this high level summary. In addition, the detailed mathematical analysis in the report would benefit from some general explanation of approach and the mathematical terminology used. Insurance Europe provides more detailed comments on individual sections of the EIOPA report below.

Insurance Europe notes that the assumptions in the context of LAC DT need to be based on what would happen in reality. In the event of an actual shock, undertakings would implement management actions, including recapitalisation. These actions (including any assumptions that sensibly flow from this, such as the writing of new business) should be taken into account as a core assumption within the calculation of LAC DT. Not to do so is to assume that the whole of the European insurance industry would go into run-off.

Given the differing tax regimes which apply throughout Europe, these actions are necessarily different between territories. A “one size fits all” view on the calculation of LAC DT is not appropriate, and this is demonstrated by the weak correlations in the data analysis by EIOPA.

Therefore, Insurance Europe’s view is that standardisation of the calculation of LAC DT is not necessary, nor is any additional guidance required.

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8.2		
8.2.1		
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8.2.3		
8.2.4	<p>Paragraph 462 & 463 Insurance Europe finds the comparison with deferred taxes in the banking stress tests beyond the scope of this consultation. The purpose of this comparison in the context of the consultation document is unclear. The banking regulations do not permit the creation of a new DTA, and are therefore on a different basis to the insurance regulations. Therefore, this section should be removed.</p>	
8.3		
8.4	<p>Paragraph 478 to 480 Insurance Europe welcomes the analysis of LAC DT across the EEA but notes that a number of supervisors have provided guidance since the analysis was made which may impact the analysis and results.</p>	
8.4.1		
8.4.2		
8.4.3	<p>Paragraph 488 Insurance Europe believes that EIOPA's conclusion is not fully accurate, in particular it is not fully correct to say that: "<i>the larger the netDTL on the balance sheet of an undertaking, the less it is likely to rely on the projections or future profits for the demonstration of likely utilisation</i>". This conclusion does not take into account particular factors from local tax regimes, for example, where a component of the balance sheet DTL does not have any corresponding offset from the stress loss.</p>	
8.4.4	<p>Paragraph 492 Insurance Europe notes that the correlation coefficient of 0.1% is too small to allow EIOPA to</p>	

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	<p>conclude a linear relationships between solvency ratio and LAC DT.</p> <p>Paragraph 494 & 495 In Insurance Europe's view, the correlation coefficients are too low to draw any other conclusion than the absence of linear relationship between LAC DT and the solvency ratio.</p>	
8.4.5	<p>Paragraph 496 Regarding the relationship between the size of the undertaking and the LAC DT, Insurance Europe does not share the assumption that the larger the company the more resources it can make available for the calculation of LAC DT.</p> <p>In addition, Insurance Europe believes that the positive correlation coefficient of 2.6% is too low to draw any definitive conclusion on the relationship between the size of the balance sheet and the amount of LAC DT.</p>	
8.4.6	<p>Paragraph 501 & 502 The regression coefficients of 0.4% for the size of the undertaking and -0.9% for the solvency ratio confirm Insurance Europe's comments made for paragraphs 492, 494, 495 and 496. The regression coefficients reported in table 11 may be statistically significant, but are not large enough to be considered economically relevant.</p>	
8.5		
8.5.1	<p>Paragraph 510 Insurance Europe believes that the demonstration of the timing of the reversal of net DTL is disproportionate and instead it should be assumed that undertakings are able to control the reversal of net DTL on the Solvency II balance sheet.</p> <p>Further detail can be found on page 7 of the CRO Forum paper (available here:</p>	

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	http://www.thecroforum.org/dta-in-scr/ .	
8.5.2	<p>Paragraph 512 Insurance Europe notes that volatility in this context is normal, and does not imply any incorrect treatment.</p> <p>Paragraph 514 The use of the word "incentivised" seems too strong in this context. Undertakings may be "more inclined" to seek reliance on future profits in jurisdictions where carry back is not allowed.</p>	
8.5.3	<p>Paragraph 517 The Solvency II Directive and Article 207 of the Delegated Regulation permit the recognition of deferred tax assets through the demonstration of future profits. As a legitimate part of the Solvency II framework, Insurance Europe believes that recognition of deferred tax assets through the demonstration of future profits represents the correct application of the legal text and, therefore, should be available in all jurisdictions and must not be undermined by artificially reducing the projection period.</p>	
8.5.3.1	<p>Paragraph 519, 520 & 521 With respect to the remarks made on supervisory practices, Insurance Europe notes that:</p> <ul style="list-style-type: none"> • A second order impact on LAC DT in respect of subsequent MCR / SCR requirements after a shock loss is not appropriate. In fact, second order calculations are not a requirement of the standard formula under Solvency II. • Compliance with the MCR and SCR should not play a role in the calculation of LAC DT as these are a given for a going concern. • Linking SCR and MCR to the recognition of future taxable income in a post shock scenario would introduce in the computation algorithms of the SCR undesirable elements of recursion and procyclicality. Specifically: <ul style="list-style-type: none"> ○ The SCR post shock would in turn be linked to the LAC DT which is determined assuming that the loss defined in art 207 of the Delegated Regulation would exist 	

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	<p>for two consecutive periods (ie recursion).</p> <ul style="list-style-type: none"> ○ There could be situations where unfavorable economic conditions reduce the excess of capital sufficiently to equal the BSCR net of the losses deriving from the TP. This would further result in an increase of the SCR in a post-shock scenario because of the reduction in the LAC DT component. <p>Paragraph 524 Insurance Europe agrees with the view of some NSAs that compliance with MCR/SCR post-shock can be restored via recapitalisations. In principle, the requirement to meet SCR and MCR in an after-stress situation, under the same pre-stress conditions and requirements, is not in line with the EIOPA guidelines on LAC DT. That said, article 101 of the Solvency II Directive lays down that the calculation of the SCR shall be performed under a going concern assumption. In addition, existing regulations require the largest undertakings to submit a recovery plan to demonstrate actions that would be taken were a shock to occur. As such, Insurance Europe strongly agrees that management actions including recapitalisation and ancillary own funds should be recognised.</p> <p>Paragraph 526 & 527 See the response provided to paragraph 524.</p>	
8.5.3.2		
8.5.3.3	<p>Paragraph 549 to 551 Insurance Europe supports the use of the pull-to-par justification as a means of demonstration of the likely utilisation of net DTA.</p> <p>Insurance Europe notes that a distinction should be made between the shocks of the BSCR on the one hand, and the assumptions used to demonstrate future profitability and the increase in DTA on the other hand.</p>	

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	<p>A pull-to-par does not mean that spread shocks do not exist. The assumption of a pull-to-par could never neutralise the entire spread shock, as the loss-absorbing effect is inevitably capped by the tax rate. Assuming a pull-to-par only means that the spread shock will lead to limited fiscal losses in jurisdictions that tax on a realised basis. The amount of the BSCR is legally fixed by Article 207(1) of the Delegated Regulation and is not affected by a pull-to-par assumption.</p> <p>Undertakings that use a pull-to-par assumption still recognise that spread shocks affect asset valuations on the Solvency II balance sheet. The essence of a pull-to-par assumption is that these spread shocks, over time, will not lead to fiscal losses. There is indeed ample evidence that spreads are more volatile compared to the actual default experience. It is, therefore, sound to assume that spread shocks will not fully materialise into fiscal losses.</p>	
8.6		
8.6.1	<p>Paragraph 561 & 562 Please refer to comments above on paragraphs 519-521.</p>	
8.6.2	<p>Paragraph 564 Insurance Europe strongly opposes the lack of recognition of new business in the assessment of future profits. In fact, if such a flawed approach was extended to the entire sector, it would be equivalent to assuming that the whole insurance industry would go into run-off and be unable to write any new business following a shock. There is no historical evidence to support this. Moreover, in a going concern view, new business is always generated and any assumption of no new business would be completely unrealistic and would distort the results.</p> <p>Paragraph 565 & 566 Insurance Europe believes that all elements that reflect the economic reality after the shock should be considered for the projection of the new business. Insurance Europe supports the following elements, listed in the CRO Forum paper (available here: http://www.thecroforum.org/dta-in-scr/):</p> <ul style="list-style-type: none"> • Going concern assumption, strategic plan estimates, projection horizon, shock per risk 	

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	<p>source and recovery patterns.</p> <ul style="list-style-type: none"> The management of new business planning should be allowed to prove that the DTA is appropriate. 	
8.6.3	<p>Paragraph 570 Insurance Europe highlights that the issue of uncertainty increasing with time horizon is already reflected in the best estimate calculation, so there is not need to consider it separately in the LAC DT.</p>	
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