

Response to EIOPA consultation paper on criteria for selecting insurers to run macroprudential analyses

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Introduction

Q1. Do you have general comments on the consultation paper?

The industry welcomes the opportunity to provide feedback to EIOPA's consultation on criteria for selecting insurers to run macroprudential analyses according to Article 45 (1) (e) and Article 132 (6).

Scope should be commensurate with the benefit

The industry agrees that macroprudential factors (eg interest rates, business and credit cycles) are potential sources of material risks for the insurance sector and should be considered in Own Risk and Solvency Assessment (ORSA) and for the Prudent Person Principle (PPP) as appropriate. As such, the new requirements, under Article 45 (1) (d) and Article 132 (5), that all insurers will have to include these macroprudential considerations in their ORSA and PPP, are sensible and are an important contribution to EIOPA's macroprudential objectives.

However, for most insurers, the additional requirements set out in Article 45 (1) (e) and Article 132 (6) will add very little in further identifying or mitigating systemic risks. Therefore, **application of these additional requirements should remain limited to very exceptional cases.**

In light of this, Insurance Europe does not support the proposed €12bn threshold. Additional macroprudential analyses should be required based solely on qualitative criteria, excluding the €12 billion asset threshold in Article 2(1). Reliance on this threshold risks disproportionate application, especially as NSAs may be reluctant to grant waivers under Article 2(2).

It is important that the Regulatory Technical Standards (RTS) aligns with the Solvency II Directive. Article 45(1)(e) sets out that the macroprudential considerations are to be integrated in the ORSA "upon a reasoned request of the supervisory authority". The application of an arbitrary threshold cannot legally be a substitute to the required exposure of motives, based on an NCA's company-specific assessment, supporting individual requests. Therefore, the RTS should make an explicit reference to the necessity for NCAs to issue individual requests along with the risk-based assessment justifying it.

Preserving the core purpose of ORSA and PPP

As a more general point, the industry highlights the importance of maintaining the character and purpose of the ORSA and PPP, which are valued and fundamental parts of the Solvency II framework.

It will be very difficult for an insurer to determine its potential contribution to sources of systemic risk (eg because of interdependencies between actions of market participants) or to incorporate such considerations as part of its investment decisions, potentially resulting in conflicts with policyholders' interests.

Q2. Do you have comments on the following items in section 1 "Background and rationale"?

1.1. Amendments to the Solvency II Directive

See Q1.

1.2. Mandate for draft regulatory technical standards

1.3. Approach to the RTS

Q3. Do you have any other comments on the background and rationale section?

N/A

Q4. Do you have comments on the following recitals in section 2?

N/A

Recital (1)

Recital (2)

Recital (3)

Recital (4)

Recital (5)

Recital (6)

Q5. Do you have comments on the following articles in section 2?

Article 1 - Definitions

Article 2 - Applicability criteria for macroprudential analysis in the own risk and solvency assessment

Insurance Europe would like to highlight that larger entities are not automatically (more) systemically relevant. This very much depends on the undertakings' activities and risk profiles which differ greatly.

Article 2 (1) – 12 Bn Threshold

Insurance Europe does not support the proposed €12bn threshold. In the industry's view, the additional macroprudential analyses should be required based solely on qualitative criteria, excluding the €12bn asset threshold in Article 2(1).

- €12bn threshold lacks risk-based justification and may become increasingly disproportionate over time without adjustments for inflation or other factors. The consultation simply refers to a criterion for reporting as rationale for the threshold, thus no thorough analysis of the threshold is conducted in the consultation.
- The €12bn threshold also disproportionately affects markets like Denmark and Sweden, where nearly all life insurers would exceed this threshold. And while local NSAs have the ability to remove entities from scope, there is great uncertainty whether the possibility to opt out in Article 2(2) will be applied effectively in practice, raising concerns about proportionality.
- If EIOPA decides to maintain a threshold,
 - Insurance Europe would support a threshold in line with the IAIS Insurance Core Principles (ICP 16.12) and ComFrame (CF 16.12) which state that macroeconomic considerations in ORSA are only mandatory for International Active Insurance Groups (IAIGs), which are required to have more than the \$50bn in assets (among other criteria).
 - In addition, it is crucial that NSAs will to a great extent apply the possibility to exclude undertakings from the scope in Article 2(2). Without exclusion, the proposed threshold could lead to disproportionate and unnecessary administrative burden and costs.

The industry proposes to add the following paragraph to Article 2 of the RTS to ensure that it complies with Article 45(1)(e) of the Directive: "For each of the individual requests to carry out macroprudential analyses in the own risk and solvency assessment, supervisory authorities shall include a communication on the risk-based assessment and reasons for inclusion with regard to the criteria set out in paragraph 3 of this article and the proportionality principle."

Article 2 (4 (b)) – "activities related to exposures with macroprudential implications which can potentially generate spillover effects"

This criterion is considered vague and could be clarified (or deleted).

Article 2 (3) (c)

In the context of macroprudential analyses, the industry would propose a legal definition of "substitutability".

Article 2 (4 (c))

Offering products with guarantees is a fundamental part of the life insurance business. It does not signify that a company is systemically risky and should not be included as a criterion to trigger the additional macroprudential analyses.

Article 3 - Assessment criteria for macroprudential analyses in the context of the prudent person principle

With respect to paragraph 1, it should be clarified that regarding all the criteria listed, systemic relevance is also a prerequisite.

Furthermore, the industry proposes – similar to Article 2 (3) (d) – to require a material use of synthetic leverage as a relevant criterion. Using a limited amount of derivatives or repo contracts for hedging or portfolio management should not create a requirement for extensive additional macroprudential analysis.

Article 4 - Entry into force

Q6. *Do you have any other comments on the draft technical standards in section 2?*

N/A

Q7. *Do you have comments on the analysis of the following policy issues?*

Policy issue A

The industry supports policy Option A1 (principle based) which would enable the NSAs based on a purely qualitative risk-based approach to identify the most appropriate undertakings to conduct additional macroprudential analyses in the ORSA and PPP.

Q8. *Do you have any other comments on the impact assessment in Annex I?*

- An approach fully based on qualitative criteria has not at all been adequately assessed in Annex I.
 - Policy Option A.1. is, according to EIOPA, a principle-based approach with only qualitative risk-based criteria and no threshold.
 - According to the impact assessment, the costs and benefits will be the same for policy Option A.1 as for policy Option A.0, ie no change/no RTS. EIOPA assumes that the same insurers will be in the scope in policy Options A.0 and A.1. This is not realistic as NSAs would in policy Option A.1 select insurers according to qualitative criteria according to, among other criteria, Article 2(3) - (4) and Article 3(1) in the RTS. This means the costs of policy Option A1 are substantially overstated and the benefits are significantly underestimated.
 - The industry, therefore, believes a fully qualitative risk-based approach based on Articles 2(3), (4) and 3(1) without thresholds would constitute the best option with respect to the balance of costs and benefits if the assessment would have been conducted thoroughly.
- The additional analyses requested according to Article 45 (1) (e) and Article 132 (6) implies substantial additional burdens for the undertakings in scope. For example, it will make the process with the ORSA and PPP more complex and burdensome. The costs for the industry of applying the hybrid approach appear to be significantly underestimated, in particular in policy Options A2 and A3. With these options, there is a large possibility that non-relevant undertakings will be covered due to the quantitative criteria (assets above €12bn). This would only provide irrelevant input to the undertakings and lead to unnecessary costs for undertakings and supervisors.
- The €12bn asset threshold data in Annex II is based on 2022 figures, which likely underestimate the current number of affected entities. Since 2022, stock markets have risen, increasing the asset base of many groups and undertakings. The table should be updated with recent and relevant data to ensure accuracy.

Q9. *Do you have any other comments on the consultation paper?*

N/A

Free Text Question

Insurance Europe is the European insurance and reinsurance federation. Through its 37 member bodies — the national insurance associations — it represents all types and sizes of insurance and reinsurance undertakings. Insurance Europe, which is based in Brussels, represents undertakings that account for around 95% of total European premium income. Insurance makes a major contribution to Europe's economic growth and development. European insurers pay out over €1 000bn annually — or €2.8bn a day — in claims, directly employ more than 920 000 people and invest over €10.6trn in the economy.