Comments Template on EIOPA-CP-19-006 Consultation paper on the Opinion on the 2020 Review of Solvency II		
Stakeholder name:	*Dutch Association of Insurers*	
	Disclosure of comments: EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. Please indicate if your comments on this CP should be treated as confidential, by deleting the word "Public" in the column to the right and by inserting the word "Confidential".	
	Please send the completed template to CP-19-006@eiopa.europa.eu, in MSExcel Format, (our IT tool does not allow processing of any other formats).	
Questions to stakeholders		**Response**
	Q2.1	**What is your view on the options on the last liquid point for the euro (including the alternative extrapolation method) set out in this section?** Please refer to the Insurance Europe response, from which we quote: 'EIOPA's analysis of the residual volume criterion and the matching criterion demonstrate that market conditions have not changed sufficiently to justify an extension of the LLP. The industry firmly believes that the existing criterion governing the LLP (ie. the bond criterion) must be maintained. Solely relying on the swap market is inappropriate and dangerous. For some undertakings hedging using derivatives is only possible to a limited extent for legal reasons. Furthermore, it is questionable if a significant part of insurers' liabilities could actually be hedged by swaps at the market. Moreover, the cancellation of the bond criterion would increase the volatility of provisions and therefore the procyclicality of life insurance business. The industry strongly opposes EIOPA's proposal to create a shadow SCR that would require undertakings to achieve full solvency under the assumption of a 50-year LLP (option 2/3/5), UFR reduced by 100 basis points and the removal of the VA/MA and transitional measures. This would de facto override the actual pillar I regulations for the LLP and is to be strictly rejected. It would have very significant implications for the functioning of the insurance sector including increased cost of funding and therefore costs to policyholders. It would also accelerate the decline in the provision of long-term guaranteed products. (See Section 2.7 for further industry views on the creation of a shadow SCR). In addition, please note that in the introduction of the opinion on the Review 2020, EIOPA describes their proposals as not a revolution, but more an adjustment based on experiences and the use of the Solvency II legislation over de last couple of years. In the LTGA reports and in the opinion, EIOPA affirms the very negative consequences of most of their options, which is again evidenced by the most recent LTGA report of EIOPA (December 2019). EIOPA reiterates that there is no need for a further increase in the capitalisation of the insurers, however most of the proposals made by EIOPA will require significant increases of capital to maintain the solvency ratios at the required levels. From this perspective assessing the current proposed options on the Extrapolation, the Dutch insurers can only support option 1.

		We believe that for the IRS markets for >10 year maturities the demand of those wanting fixed is larger and more diverse than those that want to receive floating. Evidence for illiquidity of swaps with longer maturity can for example be found in times of market stress where many participants that like to receive floating temporarily exit the market. In fact, only the market for 10 year interest rate swaps is the most convincingly liquid. The DLT assessment as performed by EIOPA does not provide a convincing demonstration of the liquidity of 30 and 50 year euro interest rate swaps. Arguments for this can be found below. • The DLT assessment of the swap market as performed by EIOPA (paragraphs 23 & 66 – 68) is deficient. • It is not realistic to use the same thresholds for all currencies. There is much more demand in euro interest rate swaps due to the volume of market participants compared to other currencies. • The assessment does not take into account times of stress, where liquidity of markets should hold as well. • Volume and number of trades are not the only measure of liquidity of a market. For example bid-ask spread and price resilience are also important indicators of market liquidity. • A DLT assessment should also take into account a sense of market balance. Both supply and demand should be available, because otherwise trades can suddenly dry up.
	Q2.2	**Should the calculation of the VA be based on the CF-Freeze approach or the MV-Freeze approach? Please explain your view.** Following the analysis presented by EIOPA only in extreme circumstances is there a real observable difference between the two methods. However, EIOPA does not mention the administrative burden of changing form the one method to another, nor does EIOPA assess the opposite circumstance. How would the VA work in such an opposite scenario? We wonder whether the new method is still feasible within the current timeframes of submitting the data on a monthly basis. In principle, we are not against the move from one method to the other. However, the current method is simpler. As an alternative, there could also be a possibility to move from the one method to another when an extreme circumstance emerges for a longer period. In addition, we would like to point out that the CF-freeze needs some assumptions to be made regarding for example "reinvestments" of matured cash flows. EIOPA does not mention this. Are there any other assumptions, which should be made regarding the CF-freeze method?
	Q2.3	**What is your view on the identified deficiencies of the current VA?** We refer to the comments made by Insurance Europe in their response. In addition the Dutch Association of Insurers notes that another deficiency is not mentioned and should be addressed. The treatment of mortgage loans and other non-rated investments. In our opinion the mortgage loans are inappropriately included in the current VA. This result for the Dutch market in negative effects. As mortgage loans are generally not rated, a solution should be found for this issue in order to reflect the risk characteristics properly in accordance with the default properties, historic default behaviour and collateral/guarantees. We also refer to the proposal as included in this response (see 2.260) With respect to the deficiency regarding the risk correction we do not agree with the (significance of) deficiency mentioned by EIOPA and the proposal to remedy this apparent deficiency. We refer to our interpretation and assessment of the determination of the Risk Correction. See the attached/embedded file. The adjustment resulting from the Risk Correction should not lead to a more procyclical behaviour of the VA.
	Q2.4	**What is your view on this deficiency of the country-specific component of the VA? How should it be addressed? (You may want to take into account in particular the options 1, 7 and 8 set out in the following section.)** We refer to the comments made by Insurance Europe in their response Any cliff effects when using a country specific VA should be avoided. The real question is whether, the use of a specific reference portfolio would reduce the basis risk (i.e. under- or overshooting). Following the risk management policies, insurers would decide whether they will use the VA or not. If the insurer is using the VA, the VA is to be used as determined by EIOPA for the specific currency. If using that reference portfolio would result in a too significant basis risk, the insurer should use the

		country reference portfolio. If the basis risk is still too high, an entity specific portfolio should be used to generate the weights and other relevant variables. In this approach there is no cliff effect, the VA will be appropriately based on the risk profile of the insurers and ensures a proportionate approach.
	Q2.5	**What is your view on the safeguards to avoid wrong investment incentives? In particular, how can wrong incentives with regard to investments in government bonds best be avoided?** In general, the cap as proposed by EIOPA could be used to avoid wrong investment incentives. However, in this approach EIOPA should assess a different approach for non-rated fixed income assets. An example is the Dutch mortgage loans, which are a significant part of the economic balance sheet of Dutch insurers. These are non-rated but have a very low default risk profile (even during stress circumstances). Also the option, as mentioned by EIOPA, for supervisors to ask the VA to be calculated at the investment mix of the prior period could be an appropriate measure. However, EIOPA should first define under what conditions this can be asked from the insurer and what procedures have to be followed.
	Q2.6	**Should liquidity buffers be recognized in the VA calculation? If yes, please describe how they should be recognized.** There is no need for a liquidity buffer.
	Q2.7	**What are your views on Approach 1 and Approach 2? Your comments are also invited on the options that are implemented in Approach 1 and Approach 2 as well as on the other options specified in this section.** We refer to the comments made by Insurance Europe in their response In general we are not supportive of the combination of the solutions as put forward by EIOPA as embedded in the two approaches. In our opinion both approaches do not achieve the objective of the VA as mentioned in the recital of the Omnibus II Directive. The general application ratio, the risk correction and the definition of the application ratio together add prudence on prudence and do not really limit the artificial volatility, which is a big concern. The approach to risk correction is acting procyclical and assumes a significant linearity between spread development and default rates and unexpected credit risk, which is not observed. It also increases the reliance on information generated by ECAIs. With respect to the duration factor we want to highlight the fact that re-investments opportunities are neglected in the duration approach. A more entity specific approach is crucial for that issue to be solved, and for the Dutch industry in particular the adequate reflection to exposure in (Non Listed and Non securitised) mortgage loans is important given the size of the holdings in mortgage loans (and as a result the continuous functions as provider of such loans to the Dutch market). Some specific thoughts on appropriate mortgage inclusion: Please refer to comments on paragraph 2.260 for a proposal to include mortgages in the VA. Some specific thoughts on the liquidity and duration factor : Please refer to comments on paragraph 2.275 and further for specific concerns on the proposed liquidity and duration factors. Some specific thoughts on risk correction: Please refer to comments on paragraph 2.325 and further for specific concerns on the proposed risk correction and the alternative approach.
	Q2.8	**What is your view on the general application ratio? Should it be changed in case approach 1 or approach 2 to the VA design would be adopted?** The general application ratio should be removed. Considering EIOPA's own analysis regarding the justification of the GAR in the current VA and the proposed changes (regardless whether we agree), most of all the issues underlying the need for a GAR are removed. Therefore it is not justified to still include the GAR.
	Q2.9	**Should the dynamic VA be allowed for in the SCR standard formula? If yes, how should it be implemented?** The industry supports the continued application of the Dynamic Volatility Adjustment in internal models. This is a fundamental part of some internal models because by applying changes to both assets and liabilities, it ensures a proper reflection of the movements in own funds in the SCR as required per the Solvency II Directive. For this reason, the industry also supports its extension to the standard formula. In the Directive 2009/138/EC, article 105, it is stated that an insurance or reinsurance undertaking has to account for the effects of the scenario on the whole of the economic balance sheet.

		"…The market risk module shall reflect the risk arising from the level or volatility of market prices of financial instruments which have an impact upon the value of the assets and liabilities of the undertaking. It shall properly reflect the structural mismatch between assets and liabilities, in particular with respect to the duration thereof. … (d) the sensitivity of the values of assets, liabilities and financial instruments to changes in the level or in the volatility of credit spreads over the risk-free interest rate term structure (spread risk); …." If an insurance or reinsurance undertaking uses the Volatility Adjustment in accordance with their risk management policy, applying the spread scenario will have the following impact on the economic balance sheet: Assets Spread sensitive assets will decrease in value due to the increase of spreads. This will have a increasing effect on the deferred taxes and or actual taxation (subject to local fiscal legislation) Liabilities As the spreads increase according to the scenarios applied (SF or (P)IM), the input values of the VA will change. This will increase the value of the VA. The increase of the VA will have an impact on the value of the best estimate. This value will decrease, which in turn will have a increasing effect on the deferred tax liabilities or decrease in the deferred tax assets or actual taxation. As the capital requirement is the impact of the scenario on the basic own funds, the aggregation of the impact of spread changes on the assets and liabilities is to be determined. In the current practice, the impact on the assets is deemed to resemble the spread risk capital requirement, while the impact on the liabilities is deemed to resemble the dynamic VA. The calculation as described can be used for (partial) internal models and for the standard formula. The resulting capital requirement is consistent with the actual risk profile of the spread sensitive parts of the economic balance sheet and the going concern requirement for the calculations of the economic balance sheet and the Solvency Capital Requirements. In the going concern, the insurance or reinsurance undertaking is generally more concerned with the actual default of a counterparty than the spread movements. In case of the former, the insurance or reinsurance undertaking is actually missing cash flows which is needed to support the benefits, claims and pay-outs of the various stakeholders
	Q2.10	**Should the correlation of risks between the participation and the participating undertaking be taken into account in determining whether a participation can benefit from the lower capital charge for strategic equity investment? Please explain your view.** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q2.11	**Considering the diversification of long-term equity risk with other risks: Do you have evidence to support any of the options set out in this section? If the answer is "Yes", please elaborate on it.** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q2.12	**Do you consider that the illiquidity of liabilities (and more broadly the characteristics of insurance business) are reflected in an appropriate manner in the current equity risk sub-module? If the answer is "No", please elaborate on the changes that you deem necessary.** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q3.1	**EIOPA is concerned that this could imply new burdensome calculation for some undertakings and therefore wants to ask the following question: Do you consider that homogenous risk groups may include profit-making and lossmaking policies?** **If yes, why are these policies considered to be homogeneous even if a key aspect like profitability is so different? Concrete examples to illustrate the answers will be welcome.** The Dutch Association of Insurers refers to the Insurance Europe reply.

		There is no need for a change in the treatment and calculation of the EPIFP. In principle, no loss -making contracts are to be sold at the inception of the contract i.e. when the insurer becomes party to the contract. A loss can be recognised during the contract based on events which are relevant for the one contract and not the other. The proposals will result in an enormous burden to identify the single contract within a portfolio.
	Q3.2	**Do you consider that the proposed definition may introduce barriers to entry for new undertakings? If yes, please elaborate the answer.** The Dutch Association of Insurers refers to the Insurance Europe reply. Claim occurrence does not necessarily alter the risk of a policy. If loss is a random process, the risk of a policy does not change and the policy could stay in the homogeneous risk group. If however, claims correlate with future claims, then these policies would indicate a riskier class. These cases relate to the property and casualty (P&C) business. And, of course, certain life policies will terminate upon claim (death). For life insurance products, mortality is normally a stochastic process, causing some policy holders dying "early" and others dying "late". The latter should not be considered loss making. Only when the average portfolio mortality would turn out higher than expected, the portfolio is loss making. On the level of an individual policy the distinction is meaningless.
	Q3.3	**Is your experience, if relevant, consistent with our conclusions that the risk margin can be more sensitive to interest rate changes for longer term business?** The Dutch Association of Insurers refers to the Insurance Europe reply. The risk margin should act more in a counter-cyclical manner with respect to the development of the interest rates. Currently, the Risk Margin results in a pro-cyclical impact when interest rates behave. The Dutch Association of Insurers is of the opinion that several aspects of the Risk Margin should be adjusted while maintaining its fundamental concept. The CoC-factor should be a function of the interest rate in such a manner that the whole Risk Margin will have an anti-cyclical impact with respect to interest rate developments. In the current economic environment a lower CoC-factor is justified (see also the response of Insurance Europe).
	Q3.4	**What is your view on the assumptions underlying the reference undertaking where the original undertaking applies the MA or VA? Considering the approaches for risk margin calculation outlined in section 3.2.7.2, are any of the noted pros and/or cons inconsistent with your own views or experience?** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q3.5	**Please note any possible approaches to the calculation of the risk margin you believe should be considered that have not been included under section 3.2. Please justify any such approaches.** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q3.6	**Do you consider a unique definition of homogenous risk groups for calculation purposes? (e.g. cash flows projections, technical hypothesis calibration etc.)** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q3.7	**Considering Life business: Do you consider homogeneous risk groups to be the model points used to reduce run-time of stochastic modelling? If the answer is "No", please elaborate it.** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q3.8	**Do you consider for reporting purposes the same homogeneous risk groups used for best estimate valuation? And for EPIFP calculation? If the answer is "No", please elaborate it.** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q3.9	**Do you consider that a 0% minimum guaranteed interest rate or a partial/full capital guarantee have a discernible effect on the economics of 824 the contract (Yes - No - Depends on the contract, economic situation and/or other products available to policyholders)? In any case, please elaborate the answer.** The Dutch Association of Insurers refers to the Insurance Europe reply.

	Q4.1	**What is your view on the treatment of EPIFPs?** The Dutch Association of Insurers refers to the Insurance Europe reply. In general there is no need to change the treatment of EPIFP. The expected profits in future premiums (EPIFP) is the result of an economic valuation of all cash flows related to an insurance contract. EIOPA already mentions that there is a direct link with the proper setting of the contract boundary. In our opinion the EPIFP is fully consistent with the approaches and principles of Solvency II. Any risks associated with the EPIFP is also dealt with within the Mass Lapse risk scenarios. So basically, insurers already hold capital against the EPIFP. In the reconciliation reserve there is no such thing as Expected Losses in Future Premiums. If there is a loss, this is automatically recognised in the reconciliation reserve. If the EPIFP is questioned, this should be done symmetrically. When assessing the EPIFP, EIOPA should also consider how EPIFP exists. This can be recognised in one-year contracts and multi-year contracts. One-year contracts are mostly seen in Non-Life insurance and NSLT Health insurance. If an insurer grants a policyholder the opportunity to pay the annual insurance premiums in multiple instalments, a EPIFP is recognised. A different treatment of EPIFP would see, the option for policyholders to pay annual premiums in monthly instalments being deleted or prices increased. This is not in the interest of the policyholders. Reference is made to the Contractual Service Margin recognised within IFRS 17. We would like to stress that the fundamental principles of IFRS and Solvency II are not the same. One of the more fundamental differences is that Solvency II considers the exit value, while IFRS assess the fulfilment value. As mentioned earlier, the EPIFP is the result of applying article 18 of the directive appropriately. Any supervisory convergence issues should be dealt under that topic and should not lead to EPIFP being targeted. In that sense the “symptoms” are targeted and not the “illness”. Putting an arbitrary limit on EPIFP will have adverse effects. This could lead to insurance contracts having shorter duration, which is not in the interest of policyholders who want to have certainty about their insurance cover and terms and conditions. A limit will also “punish” insurers who issue profitable insurance contracts, which is counterintuitive. A relegation of EPIFP in the tiering limits will have significant effects as mentioned by EIOPA. It will also result in relegations of capital because tier2 + tier 3 may not exceed 50% of the SCR. For those insurers having a sizable DTA, the room within tier 2 is only limited to 35%. Having EPIFP in tier 2 will almost exclude issuing tier 2 capital, which seriously limits the ability of insurers to (re)finance themselves.
	Q5.1	**Do you know data sources which would help to better calibrate property risk?** The Dutch Association of Insurers refers to the Insurance Europe reply. EIOPA could ask the NSAs to ask the calibration data from insurers who have modelled the property risk within their internal models. Another source is the MSCI Real Estate Solvency II Update Report.
	Q5.2	**For Internal Model users please indicate the approach chosen to model property risk within your Internal Model, when applicable.**
	Q5.3	**Do you consider that the correlations within market risk, as well as the correlation between lapse risk and market risks should be amended? If your answer is “yes”, you are invited to provide quantitative evidence supporting your reasoning.** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q8.1	**In your view, are changes to the provisions on the calculation of technical provisions necessary in order to improve the proportionality of the requirements? Please make concrete proposals.** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q8.2	**What is your preference with regard to the options on introducing further simplifications to the calculation of the SCR standard formula?** The Dutch Association of Insurers refers to the Insurance Europe reply. We are not just concerned with immaterial risks. The issue is that in the current structure, it is the insurer who has to prove that the results of the simplified calculation do not materially diverge from the more complicated calculation. For smaller insurers that would mean hiring external advice for a 50-50 chance

		that the adviser can prove that the results do not materially diverge and on top of that the 50-50 chance that the NSA agrees with that advice, and grants the insurer the simplified calculation. The risk of a negative outcome is too high for a smaller insurer to even attempt this. Simplified calculations should therefore be a default for insurers, that meet certain criteria of scale, complexity (of the organisation) and nature (of risks). In other words, we propose to reverse the burden of proof. For nature of risk we propose that insurers and reinsurers not insuring or reinsuring class 10 (Motor vehicle liability), liability in class 3 (Road transport liability), class 11 (Aircraft liability), class 12 (Liability for ships), class 13 (General liability), class 14 (credit) and class 15 (suretyship), unless these are ancillary risks, are eligible for default application of the simplified formulas. For the criteria we propose a premium income of no more than € 50 mln. (this threshold is based on the European Commission's definition of SMEs, which, as EIOPA says, has a certain arbitrariness to it, of course. We believe a higher threshold, for example € 100 mln., would also work). These insurers and reinsurers should not need advance permission by their NSA. The NSA should bear the burden of proof that a more complicated calculation shows significantly higher outcomes. This should apply to at least art. 109 of S II on simplified calculations of standard formula risk module or sub-module and art. 88, 89, 90, 90a, 90b, 90c, 91, 92, 93, 94, 95, 95a, 96, 96a, 97, 98, 99, 100, 101, 102, 102a, 103, 104, 105, 105a, 106, 107, 108, 109, 110, 111a, 112, 112a, 112b, of Delegated Regulation 2015/35), and any new EIOPA proposals on simplified calculations. The simplified calculation of the counterparty default adjustment in article 61 of Delegated Regulation 2015/35 should not require permission in advance by the NSA and the NSA should bear the burden of proof that a more complicated calculation shows significantly higher outcomes. The default method for calculating the group SCR in art. 328(1)(d) of Delegated Regulation 2015/35 should be the least burdensome method in case of insurance and reinsurance companies that are not insuring or reinsuring class 10 (Motor vehicle liability), liability in class 3 (Road transport liability), class 11 (Aircraft liability), class 12 (Liability for ships), class 13 (General liability), class 14 (credit) and class 15 (suretyship), unless these are ancillary risks, with a premium income of no more than € 50 mln. or € 100 mln.
	Q9.1	**EIOPA invites all stakeholders to share their experience on the issues discussed above regarding the interlinkages of partial internal models, and integration techniques. In particular to provide EIOPA with information on: Are you using integration techniques 2 to 5 for groups or solo undertakings with major business units? Please provide details. What are your experience in using such integration techniques?**
	Q9.2	**EIOPA invites all stakeholders to share their experience on the issues discussed above regarding the reflection of equity, currency and concentration risk in the group SCR under the combination of methods. In particular EIOPA is interested in input from the perspective of the standard formula and the perspective of internal models.** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q9.3	**In light of option 2, stakeholders are invited to share their view on how this option contributes to a consistent policyholders' protection of related EEA (re)insurance undertakings regardless of the nature of the parent company of the group (group headed by a holding company vs group headed by an insurance or reinsurance company).** The Dutch Association of Insurers refers to the Insurance Europe reply. As indicated in our comment to paragraphs 9.311-9.312 below, we favour option 3 over option 2, because it seems to ensure that all policyholders in EEA insurance and reinsurance undertakings in a group are equally protected. In option 2, this is not so clear for the policyholders of the EEA insurance subsidiaries of a participating EEA insurance or reinsurance undertaking (head of the group).
	Q9.4	**In light of option 3, stakeholders are invited to provide their view on the potential challenges that groups may face to implement this principle.** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q9.5	**Taking into account that the availability assessment of own fund at group level is a complex issue, EIOPA would like to request feed-back from stakeholders on which possible principle-based rules could be considered to reflect more appropriately the effective amount of available own funds at group level. In particular, how could the minimum required quality of own funds, which solo insurers must comply with at all times, be reflected in the availability assessment at group level? (i.e. the question is not querying on the quality of the solo own funds at a given point in time, but how the availability assessment by the group supervisor can take into account the impact of a (potential) transfer of own funds within a group on the**

		composition of solo own funds and on ongoing compliance with solo tiering limits – As an illustration, please refer to the case presented on the identification of the policy issue, paragraphs 9.325 to 9.327). The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q9.6	**Which methods/tools would be possibly used to make own funds available within 9 months from one undertaking to another when large amounts of EPIFP exist?** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q9.7	**EIOPA invites all stakeholders to share their experience on the issues discussed above regarding the clarification of the definition of the item Minority interest in Solvency II and the approach to be followed for its calculation. In particular, EIOPA is interested in input from stakeholders to assess if the calculation of the minority interest should include of external subordinated debts.** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q11.1	**What principles should be taken into account by NSAs in their decision to trigger, set, calculate and remove capital surcharge for systemic risk?** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q11.2	**What factors should be taken into account by NSAs when setting soft thresholds at market-wide level?** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q11.3	**How to ensure that the relevant macroprudential information from the ORSA reports of undertakings can be extracted and used at national level for macroprudential purposes?** The Dutch Association of Insurers refers to the Insurance Europe reply. Additionally, we would like to say the following. The most efficient way is to hire data entry capacity and learn by experience in the following years. If the data request appears to be stable, one could investigate a common XBRL format for exchanging data elements.
	Q11.4	**What are the relevant factors to be taken into account to determine the scope of undertakings subject to SRMPs?** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q11.5	**What are the relevant factors to be taken into account to determine the scope of undertakings subject to LRMPs?** The Dutch Association of Insurers refers to the Insurance Europe reply. Additionally, we would like to say the following. Every insurer is planning its liquidity needs, which is part of its core business. Most insurers have lots of highly liquid investments. LRMPs should only be required for insurers at risk (i.e. with low levels of available liquidity.). So if standard reporting reveals a liquidity risk, then a LRMP is required annually until the situation has improved.
	Q11.6	**What are the relevant factors to be taken into account to define the term "exceptional circumstances"?** The Dutch Association of Insurers refers to the Insurance Europe reply.
	Q12.1	**How should the very significant market coverage across the Member States be determined? What are relevant factors to take into account?** The Dutch Association of Insurers refers to the Insurance Europe reply. The Dutch Association of Insurers believes there are good reasons for further harmonization of recovery and resolution frame-works for insurers (minimum harmonization). This can contribute to more stability in the insurance sector, a more level playing field across Europe, both for policyholders and on capital markets. In the current fragmented landscape, investors are considering carefully the risks they run in each member state in respect of the exercise of their rights. These risks might be perceived differently in member states that have in place a resolution regime. This should provide for a regime governing cross-border coordination, information sharing and mutual recognition of resolution measures in the case of a cross-border failure. However, to a large extent, insurance markets are still local and current frame-works differ across member states. Therefore different approaches can be appropriate and justifiable. Therefore, a European framework should be principle based and flexible to be able to take into account the various differences in characteristics of insurance markets (e.g. a concentrated or less concentrated market can make different recovery & resolution tools, as well as insurance guarantee schemes more or less appropriate.

		Furthermore, initiatives with respect to further harmonization of both recovery & resolution should not be considered in isolation, but take into account the broader context: the impact of the Solvency II framework on the robustness of the insurance sec-tor, insolvency regimes, including preferential rights of policyholders in insolvency and or resolution, the extent to which tools available under resolution regimes and insurance guarantee schemes might overlap (e.g. in some jurisdictions portfolio run-offs might be done within the context of insurance guarantee schemes, in other jurisdictions, such as the Netherlands this might be done in the context of a resolution regime (including funding and financial protection of policyholders against a breach of the NCWO-principle. We believe that clarity should be provided about the (absence of) capital requirements (if any) should apply in resolution, in particular when a run-off in resolution will last years/decades. Certainly Solvency II requirements would be too onerous, and if policyholders are protected in resolution through reso-lution funding arrangements (which offer protection against a breach of the NCWO-principle) additional buffer requirements might not be necessary. We want to highlight the following specific comments: • We agree with the mentioned resolution objectives. At the same time, we believe that the decision to apply resolution tools (as an alternative to ordinary bankruptcy proceedings) should always be a combination of the first condition (protection of policyholder/beneficiaries) and one of the other objec-tives, which is also the case in the Dutch Act on Recovery & Resolution • Recovery plans at group level should not be the default, as suggested by EIOPA in paragraph 54. Recovery planning should either take place at individual insurer level or at group level. • The EIOPA consultation document does not contain an analysis of the shortcoming of the current tools available. Without such an analysis, we challenge the need to introduce additional tools, with the exception of a proportionate requirement to draft ex ante resolution plans. We believe the tool to require - ex ante - removal of material impediments to resolution should be subject to high threshold and thorough substantiation, taking into account that this is a tool that is potentially intrusive to the going concern and the generally remote likelihood of an insurance failure. We believe that the ability to resolve a group and/or include group entities in resolution should be clearly defined. It should be very clear why – as an exception – a group needs to be resolved and or why other group entities need to be included in resolution. The added value of this is not always apparent to protect the rights of policyholders in an operating entity (e.g. the application of bail-in at holding level). • Although we understand that temporary freeze of redemption rights can be an important tool to address the extremely remote risk of mass surrender, preserving value and potentially preventing the need to use more drastic measures within the resolution toolbox. However, the use should be specifically limited to this situation. We have significant concerns with a more extended use of the power to suspend and/or limit surrender rights of policyholders on a temporary basis during recovery on the basis of financial stability (i.e. for macro-prudential reasons) and/or policyholder protection. In general terms we believe that this tool constitutes an infringement of property rights of policyholders and could only be applied when the conditions the European Court of Justice has formulated, under which such breaches are justified, are met. The only potential circumstance in which we believe such a tool could be useful is when there is a real and imminent risk of an insurance run. Generally this is not the case, e.g. due to prohibitive costs and charges, related to early surrender. Moreover, we believe a credible resolution framework (e.g. orderly run-off of insurance portfolio) should neutralise the risk of an insurance run, because policyholders will continue to have a high degree of certainty that they will not be worse off and hopefully better of through resolution than by surrendering their policies during the recovery phase. However, if such a tool would be introduced, we believe the conditions under which it can be applied (i.e. a real and imminent risk of an insurance run) should be clearly and precisely described." • We believe that one of the key merits of minimum harmonization of recovery & resolution frameworks is to better facilitate cross-border cooperation and information exchange. We could also see a role for EIOPA in this context, but the merits of this depend highly on the exact details. The current description in the EIOPA consultation is too vague to properly comment. In any case, we do not think EIOPA is structurally set up to take on the role of resolution authority, should that be considered.

		• We feel that the concept of 'judgment-based' is contradictory to 'no new pre-defined intervention level'. We believe that intervention triggers in bot recovery & resolution should be clear and predictable. Discretion creates uncertainty to stakeholders (including policyholders and investors). No new intervention levels should be introduced (either pre-defined or otherwise). Supervisory intervention should take into account measures defined by insurers themselves (and which are subject to regular supervision) in their capital management plans. • Valuation principles applicable to and in resolution should be taken into account and are linked to the resolution trigger, as the resolution trigger determines potential breaches of the NCWO-principle and entitlements of policyholders.'.
	Q12.2	**How should the significant market coverage across the Member States be determined? What are relevant factors to take into account?** See the answer to Q12.1. of the Dutch Association of Insurers.
	Q12.3	**What factors need to be considered by NSAs for early interventions?** See the answer to Q12.1. of the Dutch Association of Insurers.
	Q12.4	**How could resolution authorities determine whether undertakings are likely to be no longer viable and have no reasonable prospect of becoming so?** See the answer to Q12.1. of the Dutch Association of Insurers.
		Comment
	General comments	The Dutch Association of Insurers welcomes the opportunity to provide feedback on the review of the Solvency II Directive, and to comment on EIOPA's draft proposals. We believe the Solvency II regime is generally a success. The Review 2020 should, rightly said by EIOPA, not result in a revolution but in an evolution by adjusting some elements to reduce pro-cyclicality and rebalance the capital requirements for several investment classes to ensure that insurers can continue and strengthen their long-term role in the European economy as long-term investors. In a nutshell some refinements are still needed to the long-term measures for them to achieve a proper reflection of the net risk profile associated with the long-term business model. The current proposals, as put forward by EIOPA, do not concur with the evolution as indicated by EIOPA nor do they enhance the role of insurers (i.a. as investors) in the European Union as desired by the European Commission. The proposals in general result in significant increases in either own funds or capital requirements. As indicated in several other reports submitted by EIOPA, such as the LTGA reports, EIOPA and the individual NSAs do not see any wrong risk management behaviour or undue capital relief following the use of the LTGA-measures. However, EIOPA introduces significant changes in these areas, which are in our opinion not justified. Extrapolation EIOPA considers changes to the extrapolation methodology or parameters used to derive the risk-free rate curve. Based on the current proposals / options and the impact on the Solvency ratios the Dutch association can only support option 1, retaining the status quo. The introduction of additional pillar 2 and pillar 3 requirements as proposed by EIOPA jeopardises the credibility of the current Solvency regime, Solvency ratios and adequacy of the Risk management and governance of insurers. Matching Adjustment (MA) The Dutch association feels that the LTGA-measure Matching Adjustment is incorrectly not addressed as a viable measure outside Spain and the UK. In our opinion, by adjusting the eligibility criteria of assets and insurance liabilities, the use of Matching adjustment could be extended to more portfolios of insurance products for which the use of the MA would be justified based on the risk characteristics of assets in conjunction with the insurance liabilities. Volatility Adjustment (VA)

		The industry advocates targeted improvements of the VA in order to improve the functioning of the VA and reducing the artificial volatility. EIOPA highlights some potential deficiencies, but also indicates that there is no undue capital relief based on the use of the LTGA-measures. However, the solutions to the apparent deficiencies result in the VA becoming more ineffective and more procyclical. For the Dutch market we would like to emphasise the need for a proper inclusion of mortgage loans in the determination of the VA as mortgage loans are an important investment category to back the insurance liabilities. The two approaches mentioned by EIOPA, combining several solutions to the apparent deficiencies, are introducing several layers of prudence and will ensure that the VA will not work as intended in extreme circumstances. Dynamic Volatility Adjustment (DVA) The recognition of the DVA is consistent with the requirements as laid down in the Directive 2009/138/EC, article 105 and the going concern principle which is an overriding principle when calculating the economic balance sheet and determining the capital requirements. The use of the DVA should be extended to the Standard Formula Best estimate and Technical Provisions The insurance products in the various Member States of the European Union differ. The heterogeneity is the result of different underlying legislation (for example social security law, liability legislation, fiscal legislation), policyholder behaviour, etc. Therefore a principle based approach should remain and no additional interpretations are needed. Based on the analysis provided by EIOPA there is no real issue / deficiency identified which needs a resolution in the legislation. On the EPIFP, the Dutch Association of Insurers is in favour of no change in the calculation, the granular calculation needed and the whole treatment. The EPIFP is a direct consequence of the economic perspective and should not be restricted or made more difficult to calculate. Risk Margin The Dutch Association of Insurers is of the opinion that several aspects of the Risk Margin should be adjusted while maintaining its fundamental concept. The CoC-factor should be a function of the interest rate in such a manner that the whole Risk Margin will have an anti-cyclical impact with respect to interest rate developments. In the current economic environment a lower CoC-factor is justified (see also the response of Insurance Europe). We propose that EIOPA also adjust the manner in which the SCR is aggregated from the various years in the run-off of the best estimate. The correlation should change to 0 instead of 1 (current). Own Funds The Dutch Association of Insurers agrees with the proposals made by EIOPA to retain the current structure of the own funds and introduce no change. We disagree with the section on “excessive leverage”. From the analysis made by EIOPA, it is unclear what the real issue is and the actual extent of the issue as seen in practice. SCR – Standard Formula The proposals made regarding the interest rate risk are very prudent. Please refer to the response of Insurance Europe and AMICE for alternative approaches. Regarding property risk we encourage EIOPA to recalibrate the scenario. More data is available, which would justify a lower shock than the current 25% which is significantly based on data of the UK market. We urge EIOPA to include the DVA in the spread risk module. On the equity risk, EIOPA should acknowledge the objectives of the European Commission The total calibration should result in a balanced view in risk / return and appropriately include the ALM-practices and the long-term nature of investments regarding the investment categories.

<table>
<tr><td></td><td></td><td>The Dutch Association of Insurers is also of the opinion that the correlation matrix in the market risk module has to be changed. In our opinion there should be only one correlation matrix irrespective of the active interest rate scenario. The current approach results in cliff edge effects.
With respect to the underwriting risk, there is a clear case to reduce the mass lapse scenario. The Dutch Association of Insurers has provided data on the lapse scenarios in the Netherlands. This justifies a significant reduction. The current calibration is not supported by credible data series across the European Union.

Disclosure and Reporting
The |Dutch Association of Insurers does not believe that the proposals made by EIOPA will actually reduce the burden of disclosure and reporting for the various stakeholders.

Proportionality
The Dutch Association of Insurers considers the current Solvency II reporting framework disproportionate for non-complex small and medium-sized in-surers. Therefore we welcome an increase of the threshold for application of Solvency II.
We support EIOPA’s efforts to improve proportionality by reducing the administrative and regulatory burden. Together with Insurance Ireland we suggest a toolbox with measures that can foster the proportionate application of Solvency II across all three pillars. These measures should apply by default to certain undertakings meeting specific criteria (not only scale, but also of nature and complexity of risks). Insurers which fulfil the eligibility criteria should be allowed to apply the toolbox by default. Because we do not propose a re-duction of capital requirements, the level of policyholder protection should remain unchanged.

Group supervision
The Dutch Association of Insurers would like to retain the current legislation and sees no need for all the proposals made. Within the European Union there is a wide range of groups which differ in governance, structure, size and legal structure. This diversity should be fostered. Issues between national super-visors should be solved within the supervisory structure without the need for new legislation.
The Dutch Association questions the need for a notional MCR for MFHC or IHC and is against the addition to calculate the group minimum requirements. This will have all kinds of negative effects and lead to double counting.

Recovery and resolution
We believe there are good reasons for further harmonisation of recovery and resolution frameworks for insurers. The framework should be principle based and flexible to be able to take into account the various differences of insurance markets. It should not be considered in isolation, but take into account the broader context, for instance insolvency regimes including preferential rights of policyholders.

The Dutch Association of Insurers refers to the Insurance Europe reply and gives additional comments on individual paragraphs below.</td></tr>
<tr><td></td><td>Com-ments on Ex-ecutive Sum-mary</td><td></td></tr>
<tr><td></td><td></td><td></td></tr>
</table>

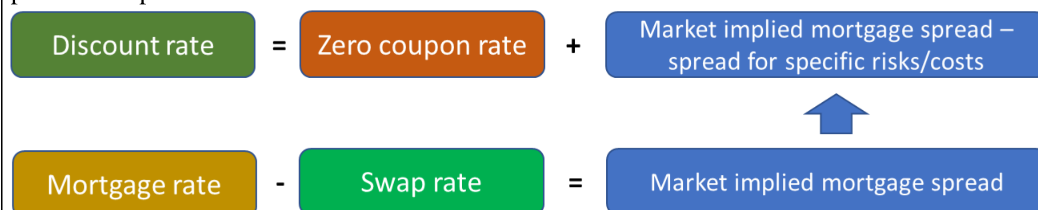
Chapter (enter 1, …, 14 or A for Annexes)	**Para-graph** (enter only the second number, e.g. 11 for para-graph 3.11)	**Comment**
2	14	Para 2.14 contains the legal framework which explicitly mentions that "undertakings shall be able to earn the rates in a risk-free manner in practice and the rates shall be reliably determined based on financial instruments traded in a deep, liquid and transparent financial market". This quote is relevant when keeping in mind the options EIOPA is considering for the LLP.
2	24	The topic of LLP and Extrapolation should not be considered in isolation as EIOPAs draft opinion does (see para 24 of chapter 2). The consequences of the options should be considered in conjunction with the other topics considered by EIOPA and should be applied consistently. Such as the VA (and DVA) and Risk Margin. Secondly, as already mentioned by many stakeholders, the Review 2020 should not lead to an increase in the capitalisation. Therefore any negative impact of the change in the LLP and/or extrapolation should be compensated elsewhere. This should be assessed on Member State level.
2	26	Para 2.26 mentions the earlier report by the European Systemic Risk Board. This analysis is incomplete since the ESRB's justification for a higher LLP is only based on the liquidity of swaps and not of bonds.
2	28	In the analysis carried out by EIOPA in the paragraphs leading up to para 2.28, EIOPA does not assess the matching and residual criterion in conjunction with each other, in other words, their combined effects. The two criteria together ensure that insurers are able to use real bonds/loans to match the cash flows of the liabilities and that they do not have to revert back to synthetic instruments such as derivatives to avoid too great a volatility on the economic balance sheet. If the two criteria are not seen in conjunction with each other, by for example only assessing the swap market as a relevant reference, (re-)insurers would have to buy massive amounts of derivatives. This will increase their interconnectedness with banks (and thus systemic risk) and increases the liquidity risk. This will thus probably increase the systemic risk of the whole S II regime. Using centrally cleared swaps will also increase the importance of the CCP, again increasing systemic risk. These developments would be detrimental to financial stability in Europe. The Solvency II legislation does provide criteria for setting the Last Liquid Point. However, the legislation does not provide a mechanism to move from one LLP to another. A sudden shift in the LLP will cause a disruption of the market as (re-)insurers have to cope with the new LLP and change their investment and hedging strategies. Two elements should be considered/introduced in the legislation: 1. A mechanism to "grow" into the new LLP has to be put in place or a mechanism which allows (re-)insurers to get used to the new reality. 2. The setting of the LLP is based on an assessment based on a certain reference date. The reliance on a distinct reference date should be considered in conjunction with a longer period i.e. if on the reference date the assessment would show a need for a change in the LLP, it should be assessed how long (duration) this need arises and the expectation for the future. Only if both assessments are positive on the need for a shift of the LLP, the LLP has to be shifted. A possible approach would be to assess the LLP on an annual basis. If it is assessed that the LLP has to be changed, the assessment should be repeated after 6 months and 12 months. If it is considered that the LLP should still be changed, the LLP will be shifted for the next reference date. This will ensure that all relevant parties have time to change their policies, practices and investment mixes and/or change terms and conditions of new insurance policies in order to cope with the new environment.

2	30	Regarding para 2.30, it should be noted that there is a reason for not using quotes beyond the LLP. If these quotes are included in any measure, it should be assessed whether these quotes meet the criteria for an arm's-length transaction. Otherwise onerous transactions could influence the value of the technical provisions. The risk of underestimation can be assumed to be included in the interest rate shock. Whether LLPs beyond 20 years are liquid should not only be assessed based on the number of transactions, but also from the perspective of counterparties providing the liquidity. One should also assess how counterparties assess the longer maturities in their risk management, i.e. for example: are they mitigating their exposures at 50 years with 20 or 30 years instruments? What would that say about an LLP at 50 years?
2	32	The UFR, with the current methodology, will keep decreasing. In para 2.32, EIOPA does not include this in its assessment of the impact of the LLP and extrapolation methodology. Since the start of Solvency II, insurers maintaining their ambition in the Solvency ratio had to increase their capital to absorb the impact of the lower UFR. This will continue in the coming years. Thus, even if nothing changes, the capitalisation will increase. Para 2.32 mentions that undertakings have the opportunity to use derivatives to hedge risks when no sufficient bonds and loans are available. This argument is incomplete because derivatives cannot be freely used to extend the duration of the asset portfolio (e.g. following undesirable accounting consequences and more difficulties to use for smaller undertakings). Furthermore, this argument does not take into account the increased interdependency of banks (the providers of derivatives) and insurers, thereby increasing interconnectedness, and thus systemic risk. Furthermore, increased activity of insurance undertakings on the long end of the interest rate curve can lead to instability (especially in stressed periods) since the number of natural counterparties for these long-dates interest rate derivatives is limited (thereby creating procyclicality and even lower rates for long maturities).
2	33	The UFR convergence period does not change market consistency. The point of an UFR is that no market is present, and rates cannot be consistent with non-existing markets.
2	34	The concern mentioned in para 2.34 is only warranted in a situation of a winding up, i.e. the gone concern. In a going concern, one should assess the probability of the interest rates staying low for more than 50 years. Rather than already assuming that interest rates are really staying low for a very long term, supervisors should ask how the business model of insurers is able to cope with such a situation of very long and low interest rates. One could consider the current structure of the interest rate to include a kind of transitional mechanism. Each year insurers have to add more capital to meet the capital requirements. This is evolutionary rather than revolutionary. The supervisors should ask questions concerning the business model going forward, the sustainability of products and guarantees, the ability to meet the agreed guarantees in the shorter and longer term and they should ask for the vulnerabilities. EIOPA says in para 2.34 that not complying with the SCR makes a transfer of liabilities necessary. According to S II a recovery plan is necessary in such circumstances.
2	35	EIOPA argues in para 2.35 that if a scenario would unfold in which extrapolated rates differ from reality, in retrospect the TP would be wrong. Predicting the future has proven impossible up until now. A back test of relevant future rates (up until 100 years for life business) is desirable. It is not sound policy to base policy changes on subjective worries only.
2	36	The distributions mentioned in para 2.36 to shareholders and other relevant stakeholders are based on the capital adequacy policy and assessment of the capital position over the coming periods. In the mid-term capital plans, adequate provisions and assessment are based on the impact of these distributions. Also in the stress scenarios, the distribution of dividends is included. These exercises will be considered when assessing the ability to distribute any cash to the stakeholders. The risk will only exist if both parties neglect to do their jobs, that is if those assessment are not made by the (re-)insurer and the supervisory authorities do not discuss any distributions in their supervisory dialogue. Anticipating adverse developments in the next decades would contradict the SII assumption which has been calibrated on 1/200 on a one year horizon. If the horizon should be extended, then all possible scenarios should be explored, including more favourable ones. Making dividend payments more difficult would (1) jeopardise access of insurers to capital markets, (2) decrease the value of insurance and (3) make insurance more expensive for policyholders.

2	39	This is not only the case for the LLP, but also for the CRA. If assets are discounted using the swap while liabilities are discounted with the swap minus CRA a difference of at least 10 bps is recognised. Whether this is the case also depends on the vision of the (re-)insurers on the behaviour/size/shape of the interest rate beyond the LLP. There is a reason for a LLP.
2	43	ALM hedging is a core activity of insurers and is done chiefly through bonds, loans and mortgages with additional hedge instruments. Re-directing ALM matching focus to derivatives, as EIOPA proposes, is detrimental to financial stability (cf. the 2008 financial crisis). Additionally, insurers should thoroughly understand their hedging instruments, otherwise their viability and policyholder protection could be at risk.
2	46	The example given by EIOPA in para 2.46 proves that LTG measures are not working properly. ALM matching protects policyholder interests but is not appreciated in SII legislation. Weakening the solvency position upfront is not a solution here.
2	52	Risk management considers all relevant metrics including IFRS, Economic, SII, Transfer Value and Rating agencies. SII was meant to be a market-value and risk-based metric but was implemented with certain compromises. It would be wrong to fix only one issue and leave the other issues unsolved, such as spread risk on government bonds, unrealistic risk margin assumptions, own funds tiering restrictions, etc.
2	71	Section 2.2.4.4 is about evidence on DLT assessments and paragraph 2.71 states that evidence is missing for euro bonds, which is quite worrisome.
2	72	Para 2.72 excludes unit-linked liability cash flows in assessing the matching criterion. We wonder why, because these cash flows should also in the end be matched.
2	73	Article 2.73 mentions that data is incomplete. Therefore, an LLP of 23 years in 2018, excluding unit-linked business, cannot be substantiated, especially since the LLP for all cash-flows has not changed from 2017 to 2018.
2	77	Para 2.77 calculates the residual bond criterion for EUR. Here it is relevant that the ECB bond purchasing programme is also reflected in the calculations, since this decreases liquidity of the (long-dated) sovereign bond market significantly.
2	79	Para 2.79 and 2.80 do not conclude with implications for EUR. This is odd since the deep, liquid and transparent analysis for the EUR (based on bonds) does not point towards a LLP higher than 20.
2	81	Para 2.81 (and following) says that, irrespective of the LLP choice, the Solvency II ratio under a LLP of 50 years should be publicly disclosed. This is very undesirable since in this case analysts are likely to use this completely theoretical “shadow metric” as a base case Solvency II ratio (because explicit links are also made to dividend capacity). This is not in the spirit of Solvency II whereby the Solvency II ratio based on Own Funds and SCR as specified by the regulations should be leading. The different options presented in para 2.81 and further (especially 2.127) ignore all existing regulations on the liquidity of the bond market, and these options are very poorly justified.
2	89	See our comments on para 2.43.
2	127	We identified additional cons of Options 2, 3, 4 and 5. The (additional) disadvantages of Options 2 and 3 are: prohibiting dividends would jeopardise insurers’ access to capital markets and decreasing their value thereby putting policy holders at risk. The following additional disadvantages of Options 3, 4 and 5 are: moving ALM hedging to derivative instruments will threaten financial stability as was experienced in the financial crisis, in addition, the huge additional volumes to be processed will probably increase their price
2	147	Application of the MA is not allowed in the Netherlands but would solve the Long-Term Guarantee issue. Dutch insurers believe that the ALM matching that is done for Dutch life insurance portfolios is exactly what the MA was created for. Because of the cash-flow matching (which cannot be perfect due to lack of instruments with sufficient long-term cash-flows) interest rate risk and spread risk are overstated in the standard formula without the MA. The exclusion of government bonds in the spread risk module compensates this failure to a certain extent. Assets are not held to maturity but are actively monitored to protect policy holder interests.
2	163	Para 2.163 proposes to remove the limitations to the diversification benefits. This is positive, but only relevant for Spain and the UK.

2	164	Re. para 2.164, the Dutch Association of Insurers propose to adjust the rule son the MA in such a way that the scope of the MA could be widened, while preserving the cash flow matching requirements, that makes it such an interesting too for financial risk management. We therefore propose the measures listed below to widen the scope of MA assets and liabilities, while keeping the cash flow requirements materially the same. The Matching Adjustment (MA, art. 77b Directive) allows to value a portfolio of insurance liabilities on the basis of the current yields of covering assets under specific circumstances after approval of the supervisor. The conditions are generic, but it is only used in the UK and Spain. The idea behind the MA is appealing from a financial risk management perspective: as long as the cash flows of specific insurance liabilities are covered by specific assets, and those assets remain separated to cover the insurance liabilities, the value of both portfolios should move in synchronicity. The MA provides a powerful tool for a cash flow matching investment policy, that could be considered as the most risk adverse investment strategy. However, the requirements on the MA were based on existing legislation in the UK and Spain, and made it very hard to apply to other countries in the EU, were insurance assets and liabilities have slightly different features. The measures we propose to improve applicability of the MA are: • For existing insurance portfolios where the Matching Adjustment is applied, grandfathering should be allowed if criteria are adjusted following the Review 2020. The existing portfolios which are currently subject to application of MA, should be allowed to run off respecting current MA implementation. • Article 77b 1b. ("… and the assigned portfolio of assets cannot be used to cover losses arising from other activities of the undertakings") should be adjusted and replaced by a requirement to annually test "avoiding forced sales" of assets included in the matching portfolio. If the insurer is able to demonstrate its ability to absorb any pre-defined liquidity stress, the Matching Adjustment is allowed to be used. • The insurer is still required to earmark and manage the assets matching the liabilities subject to the MA separately, but the requirement to cover losses from other activities should be removed as it is unnecessary and hard to enforce from a legal perspective. An earmarked portfolio provides for the dedicated assets, and there should be strict governance on the decision to trade in assets in the earmarked portfolio (i.e., trading should only be allowed in order to adjust the asset portfolio to improve the asset position to cover the liabilities under the MA) • Currently, the cash flows are required to be fixed and in theory should not change. However, certain cash flows within the insurance liabilities are dependent on discretionary events (e.g. discretionary indexation funded with a single premium). If the insurer can demonstrate its ability to again match these future cash flows with eligible assets, this should be allowed. This may lead to an updated Matching Adjustment portfolio. These discretionary events may not lead to the addition of a significant risk compared to the existing risk profile. • Future premiums are currently not allowed. However, these should be allowed if the insurer can demonstrate its ability to match the future liability cash flows (arising from these premiums) with eligible assets. Furthermore the future premiums should not give rise to additional significant risks deviating from the profile of the original MA portfolio and the future premiums will be invested in assets that will added to the MA assets. • Unbundling is currently not allowed. However, unbundling should be allowed if the components are included in separate lines of business. For example health riders i.e. the components could be separately sold. • Currently surrender options are generally not allowed, only under strict conditions. However, if the impact of these surrender options is limited, this should not disqualify the insurance product to be eligible. As stated above, a requirement to avoid forced sales and a test that the liabilities can be met with the MA assets after a liquidity shock provides the same protection. • Currently, article 77b 1c. ("the expected cash flows of the assigned portfolio of assets replicate each of the expected cash flows of the portfolio of insurance or reinsurance obligations…") is open for interpretation with respect to the restrictiveness of the requirement. This should be made more concrete. Our position is that the cash flow matching should be less granular for longer durations e.g. the first year a quarterly basis for cash flow matching is required, up to 5 years yearly cash flow matching is required, for year 5 to 20 buckets of 5 years are required for cash flow matching and after that buckets of 10 years are required for cash flow matching. The requirement that trading in the MA portfolio is allowed to improve the matching, introduces the possibility to refine the buckets when the cash flows in the MA portfolio come nearer in time.

		• Currently, within the eligibility criteria for assets “pre-payment risk” prohibits the use of assets subject to prepayment risk in the matching portfolio (article 77b 1h). However, if the prepayment risk (which is the deviation of prepayment under a shock and (best estimate) assumed prepayment) for these assets is within limits such that the insurance company is able to demonstrate its ability to cover the liability cash flows with the matching assets after a shock, these assets should be allowed. This could e.g. be implemented by having a higher volume of these assets than strictly required to match the liability cash flows under best estimate assumptions.
2	202	In para 2.202, EIOPA only mentions their advice as previously submitted to the European Commission. However, to be complete, the comments received from the stakeholders should also be included to provide a balanced view on the issue of the Volatility Balancer. The bullet point "The calculated spread (already excluding the portion linked to default risk) is adjusted to account for risk associated with the implementation of the adjustment by means of an application factor of 20%" suggests that the 20% could be removed after the implementation of the measure.
2	203	EIOPA refers to the Omnibus II directive. In the recital mentioned, the following first sentences are included "In order to prevent pro-cyclical investment behaviour, insurance and reinsurance undertakings should be allowed to adjust the relevant risk-free interest rate term structure for the calculation of the best estimate of technical provisions to mitigate the effect of exaggerations of bond spreads.". Any change proposed by EIOPA should therefore not lead to a more procyclical nature. Furthermore the recital suggests, that the VA should be more related to the investments, rather than based on the characteristics of the technical provisions. The options as suggested by EIOPA refer more to the characteristics of the technical provisions and neglect this recital.
2	220	EIOPA mentions "Such "freezing" could lead to a significant misestimation of aggregated spreads and yields. Hence, a careful assessment of the implications of such an approach appears necessary". We wonder whether, EIOPA experienced any such misestimation in its analysis since 2007? If so, what was the impact?
2	227	In the description in para 2.227 of the issue, EIOPA omits that financial instruments mature and are re-invested. The overestimation for these cash flows are very limited. EIOPA describes an interest rate increase in para 2.227, but in case of an interest rate decrease, there is an underestimation of the cash flows. This has occurred in 2018.
2	236	The conclusion which could be drawn from para 2.236 is that the VA works well in the normal circumstances. Normal circumstances in which the Best Estimate (BE) is calculated in a going concern. Only in very extreme circumstances is there an issue. Para 2.236 mentions the conclusion on the technicality point of keeping some of the source assumptions constant throughout the year. Although we acknowledge from a technical point of view that this can lead to strange consequences, the implications for the VA itself are not shown or documented by EIOPA. The figure provided by EIOPA in para 2.236 shows clearly that the VA (meant to dampen sudden MV movements of bonds caused by spreads and not by defaults) weights change in stressed circumstances and should therefore not be used as the basis for calculations.
2	248	In para 2.248 EIOPA only presents the B-rated case, but does not provide the same graphs for all the other instruments. It is therefore difficult to compare.
2	258	EIOPA's opinion as stated in para 2.258 is of course important, but not sufficient to eliminate the option for the impact assessment. Every basis point change in the risk curve is impactful and should be examined. The impact is dependent on other VA option choices
2	260	[Dit is ingediend als een annex bij de excel file, omdat excel niet goed omgaat met plaatjes] EIOPA has carried out an intensive review and as a result highlighted several deficiencies. However, EIOPA did not assess the appropriateness of including all possible investments when determining the VA. One of the asset classes which is not included properly for the Dutch market is mortgage loans. In some Member States (e.g. the Dutch market) the mortgage loans are a significant part of the investments backing the insurance liabilities. Because of the materiality of the allocation of mortgage loans, mapping them to corporate bonds is not an appropriate simplification (as applied by EIOPA) anymore, especially considering the low correlation between mortgage spreads and corporate spreads. Mortgage loans are specific investments. In the Dutch market direct mortgage loans are not listed (The mortgage loans on the balance sheet of Dutch insurance companies are almost completely direct mortgage loans and thus not structured assets.). The counterparties of mortgage loans are individual

<table>
<tr>
<td></td>
<td></td>
<td>consumers, some of which also have an insurance policy related to their mortgage loan. The mortgage loans are an important instrument in hedging the interest rate risk arising from insurance liabilities and are therefore generally held to maturity (so no intermediate sale), so insurers have no objective to benefit from short term price fluctuations. Furthermore the default rates from Dutch mortgage loans, on average, are very low (this was also seen during the credit crisis of 2008-2010).
Under the current approach mortgage loans are allocated to corporate bonds.
Our proposal for treatment of mortgage loans in the VA is to use a separate mortgage index. As mortgage loans are not traded on an active market and no quoted prices exist, obtaining an economic value is based on a market-to-model valuation methodology. The valuation methodology can either be based on a top-down approach or bottom-up approach. The latter involves more entity specific assumptions and possibly expert judgment.
For this proposal we refer to the “top-down approach” (with the benefit that this approach is widely used in the Dutch market). Under the top-down approach the spread is derived from market data.


Market rates for mortgage loans can be obtained from the consumer market for mortgage loans. The mortgage rates from providers should be assessed for their quality . From this rate the “swap rate” is deducted to arrive at the “market implied mortgage spread”.
From the “market implied mortgage spread” costs are deducted which are not relevant to the valuation of an existing mortgage loan. These costs include (non-exhaustive):

Pipeline risk.
Pipeline risk is defined as the Interest rate Risk which exists for an issuer between the moment of putting forward a proposal to a consumer and the settling of this proposal in a legal manner.
In principle the pipeline risk is determined as the cost of buying an Interest Rate Swap (IRS) in which the fixed leg is the mortgage loan interest rate as put forward and the floating leg is Euribor (or an equivalent benchmark). The IRS is obtained for a similar period for which the pipeline risk exists;
Marketing and Sales;
Servicing at origination.

For each Member State this exercise can be performed, based on which an index per Member State (where appropriate considering the size of the mortgage holdings of the insurers) can be constructed where mortgage loans are a significant part of the investment mix and included in the determination of the VA.</td>
</tr>
<tr>
<td>2</td>
<td>261</td>
<td>The third attribute mentioned in para 2.261 cannot be linked to the objectives as mentioned in the recital regarding the VA as included in the Omnibus II Directive.</td>
</tr>
<tr>
<td>2</td>
<td>262</td>
<td>If the third objective mentioned in para 2.262 is eliminated, several of the deficiencies are not so apparent.
A deficiency which is not mentioned is the less granular information used for example regarding the treatment of mortgage loans.</td>
</tr>
</table>

2	268	In para 2.268, in the duration, EIOPA should also consider the duration of the "own funds" of the undertaking. The insurer will also allocate fixed income securities covering the own funds. The own funds are a further buffer which could cover for the exaggeration of the spreads. The SCR and the economic balance sheet should both be calculated in a going concern situation. Another deficiency exists: less granular use of indices are investments categorised in buckets used by EIOPA. One example is the treatment of mortgage loans.
2	269	It is worth mentioning in the context of para 2.269, that the VA, with its apparent benefits, is not the only element in the ALM process and decision-making of insurers with respect to their investment mix.
2	271	The table following para 2.271 shows the “overshooting” effect, which EIOPA gives a lot of attention in their supervisory practices. The table shows that the actual overshooting impacts are minimal and the figures are only above 100% for Luxembourg and Sweden, which represent only ~2% of total assets, and are therefore not really material. This does not change looking at the paragraphs up to 2.276.
2	275	EIOPA should also include the duration of the own funds as part of the analysis in para 2.275. Then the graph and observation would be different. Especially for non-life insurers, the own funds comprise a big part of the liability side of the balance sheet. Investments are also backing the own funds.
2	276	It is unclear whether in para 2.276 EIOPA has included the Risk margin as part of their analysis as EIOPA refers to TP and not BE. The risk margin is not a cash flow and should therefore be excluded from the analysis.
2	277	As mentioned in the recital the illiquidity of the TP is not mentioned when addressing the VA. EIOPA clearly makes this link in para 2.277. In the opinion of the Dutch Association of Insurers, the own funds should not be disregarded in the equation. The issue is not the illiquidity of the insurance liability, but the ability to avoid forced sales, and the ability to keep receiving the agreed earnings of the financial instrument and the value at redemption.
2	278	Paragraph 2.278 points out the problem for long term guarantees exactly. They are highly illiquid and an illiquidity premium could be expected but is not recognised in SII legislation. The illiquidity premium is however a different issue than the VA, though both address LTG (as is the MA).
2	279	In para 2.279, EIOPA rightly brings up the issue of forced sales, which should be considered by insurers. In a going concern, the insurers are required to assess their ability to withstand any liquidity shock and the risk of forced selling i.e. the risk of having to realise so called unrealised losses. Rather than using the VA to assess this risk, liquidity risk management and liquidity stress tests are the proper tools to this end. Para 2.279 mentions that illiquidity of the insurance liabilities is not reflected in the VA. Although it is indeed the case that on the level of the individual undertaking the liquidity of the assets used for calibrating the VA can differ from the actual asset portfolio, this argument does not hold on an aggregate level. The assets used for calibrating the VA are based on the “average European insurer allocation” which is based on the liquidity characteristics of the liabilities. For example, on average, large holdings of sovereign bonds can be explained by the desire of insurers to have liquid assets in place to back liquid liabilities (the reverse also holds for illiquidity). This is important to keep in mind in following paragraphs of the draft advice of EIOPA, where this principle is not acknowledged.
2	289	Para 2.289 shows a figure of the current risk-correction which is relatively independent of actual spread levels. Hereby, any proposed changes should also be evaluated in conjunction with other layers of prudency embedded in the VA (and further proposed in the document). An application ratio of 65% and scaling down for duration mismatches, liquidity mismatches and increasing risk corrections will create an environment of having layer-on-layer-on-layer of prudency. Each layer costs money, which will ultimately be financed by the policyholder.
2	290	The graph presents the spread development, but not the default of this category. In para 2.290, EIOPA presents only the actual case of one specific category, but does not present the case for the whole corporate bonds category. For example, how did covered bonds behave during the crisis? Was there any default or the default as indicated by EIOPA? Similar to mortgage securitisations in the Netherlands?
2	291	Re. para 2.291, we would like to see an example of French spread movements resulting in more or fewer defaults. Of course, a correlation will exist in non-investment grade bonds, but is a correlation present in investment grade bonds?

2	292	The information in para 2.292 (footnote) refers to analyses of a situation up to 2008, but does not go into the detail of the 2008-1012 crisis, which are highlighted by EIOPA as evidence. We would like to know how this information is still relevant, considering developments following the 2008 crisis, and how that relates to the different investment categories which can be identified in the corporate bonds portfolios? In the abstract EIOPA states "...credit spreads do not appear to have predictive power for subsequent default rates." This refers to US data only, which is not representative of the EIOPA reference portfolio.
2	293	EIOPA states in para 2.293: "The credit spread reflects a compensation for expected losses, a credit risk premium for unexpected losses, a liquidity risk premium and potentially a compensation/correction for other risks/options". All these components could be considered to be in the spread, but a real breakdown into the components and subsequent quantification will be subject to a lot of expert judgment and different academic opinions.
2	294	Re. para. 2.294, it seems useful to explain that most insurers apply a strategic asset allocation with targets and thresholds. If these are measured in market value (10% in corporates) and spreads go up, the insurer will start buying additional bonds to keep the percentage close to 10. Another example is a threshold (or target) in credit quality. If the threshold were to be breached by a downgrade, the bonds will be sold (possibly worsening the situation). VA is meant to dampen OF for spread induced MV movements of assets so a strategy could be to invest like the reference portfolio maximising the dampening effect (VA-hedging).
2	296	In para. 2.296 EIOPA presents a case of pro-cyclicality with respect to the "search for yield". EIOPA omits that more risky assets also imply higher capital requirements. The decision of insurers to invest is based on a risk/return basis and not on the VA. Also, insurers invest on a going concern basis. The procyclical effect mentioned by EIOPA is therefore purely theoretical. Para 2.296 mentions that the VA is almost always a positive adjustment. The Dutch Association of Insurers notes that a compensation for illiquidity risk embedded in insurance liabilities is always expected to be positive, or it would not really be a compensation to begin with.
2	297	With regard to para. 2.297, we observe that recital 32 of Directive 2014/51/EU says: "In order to prevent pro-cyclical investment behaviour, insurance and reinsurance undertakings should be allowed to adjust the relevant risk-free interest rate term structure for the calculation of the best estimate of technical provisions to mitigate the effect of exaggerations of bond spreads."
2	300	EIOPA states in para. 2.300 "... thus there is no unique transfer value for undertakings with similar liabilities". However, in the transfer of an insurance liability, the third party is also able to use the VA and thus has a similar value. This should even be recognised in the value and calculation of the Risk Margin.
2	318	Para. 2.318 (and effectively many other para's in the remainder of the document such as para 2.338) introduce the undertaking specific VA. In evaluations of an undertaking specific VA it is crucial that EIOPA publish a more granular set of asset class spread levels. Currently, typical illiquid exposures such as residential mortgages and loans are mapped to corporate bond exposures. Although this is already a flaw in the current calibration, this is less of an issue given the relatively low holdings on average for the European industry as a whole. However, this will be a problem on individual undertaking level since the holdings of these assets can be significant and mapping of these assets to corporate bonds will strongly underestimate the true VA or excess spreads of these assets. Because of the strong negative impacts of the VA proposals on the Dutch insurance sector, the Dutch Association of Insurers believes this flaw in the calibration should be addressed. EIOPA mentions in para. 2.318 that the current risk-correction is relatively independent of actual spread levels. Any proposed changes should also be evaluated in conjunction with other layers of prudency embedded in the VA (and further proposed in the document). A general application ratio of 65% and scaling down for duration mismatches, liquidity mismatches and increasing risk corrections, will create an environment of having layer-on-layer-on-layer of prudency. Furthermore, basing risk-corrections on current spread levels will reduce the effectiveness of Own Fund stabilisation especially in times of stress. Re. para 2.318, we would like to say that Option 1, or a combination that at a minimum contains option 1, is the only direction that would generate a possible solution. We would like to emphasise that for the Dutch insurance industry it is only a solution, if there is recognition of specific Dutch mortgage model points for setting risk corrected spread, and that mortgages get their company specific weight in calculating the company specific VA.

		Paragraph 2.318 says EIOPA will still provide spreads (as function of asset type, credit qualities, durations and currencies). The weights in the weighted average will be based on the insurer's portfolio. It is not certain that EIOPA can provide mortgage spreads (due to potential lack of proper benchmarks). We note that EIOPA only mentions "corporate bonds" and "government bonds" explicitly.
2	324	In the assessment of the "potential for wrong incentives" in para 2.324, the Dutch Association of Insurers would like to draw attention to the already implemented Governance and Risk management processes including the prudent person principle. We also note that insurers make investment decisions on multiple other elements than the VA alone. Insurers also have to present their Solvency ratio without the use of the VA. If the wrong incentive would materialise, market discipline would countervail this. Insurers with a rating provided by an ECAI, will also have a different perspective when investing in riskier assets. This could impede their desired rating.
2	325	[Dit is ingediend als een annex bij de excel file, omdat excel niet goed omgaat met wiskundige formules] The safeguards EIOPA mentions in para. 2.325 (especially the risk-correction) will have a pro-cyclical effect. The risk correction should have a relationship with the actual/expected default after the exaggeration of the spreads. Under (c) EIOPA mentions some safeguards, but EIOPA already collects on a frequent basis asset-by-asset information (QRT S06 02). Therefore we would like to know why this additional information is needed. The NCA can already assess the prudent person principle, the ALM policies, the risk appetite statements and assess whether there is any vulnerability as assumed by EIOPA. Therefore, we see no need for additional safeguards; a supervisory dialogue between the insurer and the NCA will suffice. An alternative approach to the risk correction: **Introduction** EIOPA has specified the following deficiencies for the risk correction [1]: 1. Almost insensitive to credit spread changes 2. Does not reflect actual default losses 3. Does not reflect credit risk premium for unexpected losses 4. Unnecessarily reflects cost-of-downgrade EIOPA has proposed to base the calibration of the risk correction on the academic literature on liquidity risk. In particular, EIOPA has defined the risk correction as everything that is not liquidity premium. However, when addressing the four deficiencies above, it seems more natural to focus on cash flow losses (in particular default risk). The problem with a liquidity premium is that it is very difficult to define and to measure. We argue below in more detail that the risk correction should measure cash flow losses. Cash flow risk can be defined and measured in a direct and objective manner and it is the relevant risk for insurers to address under a buy-and-hold strategy during crisis times. **Risk correction** We start by introducing some relevant concepts behind the Matching Adjustment (MA), the Volatility Adjustment (VA), the application ratio and the risk correction. When it is conceptually clear what each component should measure, a quantitative framework can be developed. The central reasoning behind the MA is that a certain asset spread, namely for liquidity risk, can be earned with limited risk, if the corresponding asset is used to match an illiquid (stable) liability and is held to maturity. In that case, liquidity risk does not affect the company holding the asset, since the replicating asset is not sold in the meantime. Solvency II regulation allows to include the corresponding illiquidity spread in the valuation on the liability side. The logic is that stable liability cash flows can be hedged with illiquid assets, which makes the liabilities less expensive, because they are replicated by cheaper instruments. In case of the Volatility Adjustment, the criteria are less strict than for the MA, but the financial background is similar. Insurers avoid forced selling in times of crises, which limits liquidity risk under stress. An application ratio is used for the VA to account for less strict matching and illiquidity criteria

compared to the MA (according to the interpretation of EIOPA). EIOPA formulates the main objectives of the VA as follows [1], although the third objective is not included in the recitals of the Directive which introduces the MA and VA as concepts.

1. Prevent procyclical investment behaviour;
2. Mitigate the impact of exaggerations of bond spreads on own funds;
3. Recognise illiquidity characteristics of liabilities in the valuation of technical provisions.

Concepts

In order to develop a conceptual framework for the risk correction, it should first be specified what the risk correction should measure (and what not). We first note that deviations from the matching assumption and deviations from the forced selling assumption in the VA should be addressed in the application ratio. To avoid double counting we should not address these issues again in the risk correction. We thus assume that (after applying the appropriate application ratio) sufficient cash flow matching and avoidance of forced selling holds. We will refer to these as the key assumptions.

As a next step it is relevant to clarify what is meant by illiquidity risk. Illiquidity risk is naturally defined in this context as all risks that affect the value of (fixed-income) assets without affecting the underlying cash flows. Illiquidity risk is defined in this way as the complement of cash flow risk. From the above discussion it is clear that under a replicating buy-and-hold strategy, only cash flow risks affect the insurer. An important example of cash flow risk is default risk (or sometimes described as credit risk). In fixed-income contracts without exotic features default risk is the main cash flow risk. In the remainder we focus on default risk, but any other cash flow risks can be measured and included along the same lines.

Examples

Having specified what the risk correction should capture, namely all potential cash flow losses (both expected and unexpected), we proceed by considering explicit examples.

Case 1: Expected credit risk

Because the application ratio should capture deviations from illiquidity and perfect matching, we apply the key assumptions of stable and matched liability cash flows for the risk correction. We denote the cumulative credit loss at maturity T as CL_T. Cumulative credit losses for corporate bonds are standardly reported by data reports of credit agencies. We assume in first instance the cumulative credit loss CL_T to be predictable. The reason is to create a setting in which the risk correction can unambiguously be specified. Consider a stable liability cash flow L_T at maturity T. The matching asset is a zero-coupon bond with notional $N_T = \frac{L_T}{1-CL_T}$, because $N_T(1 - CL_T) = L_T$ remains at maturity after including credit loss. The value of the replicating asset is given in terms of the risk free rate r_T and the spread s_T as:

$$V_A = N_T e^{-(r_T+s_T)T} = \frac{L_T}{1 - CL_T} e^{-(r_T+s_T)T}$$

The value of the liability is by definition of the volatility adjustment va_T given by:

$$V_L = L_T e^{-(r_T+va_T)T}$$

In case of perfect illiquidity and replication, the application rate must equal 1 to avoid inconsistent valuation. Using $va_T = (s_T - rc_T)$ with rc_T the risk correction and $V_A = V_L$, we obtain:

$$RC_T = -\frac{1}{T}\log(1 - CL_T)$$

This is the expression for the risk correction in case of perfect illiquidity and perfect matching in terms of cumulative credit loss over the maturity T of the bond, when credit loss is predictable. Again, deviations from perfect illiquidity and perfect matching should be captured in the application ratio. Typical historical average cumulative credit losses for 5-year BBB bonds are 50 bps, corresponding to an historical average risk correction of 10 bps. During the most recent crisis years cumulative default rates have been somewhat higher than the historical average (e.g. considering 5-year cumulative default rates for the cohort starting 2008), but the observed increase in credit losses has been much less than the increase in spreads.
We note that for financial bonds, the spreads for 5-year BBB bonds have risen to 1500 bps during the most recent crisis. The proposal of EIOPA is to use a risk correction of 60% in these cases. Using the above formula, this risk correction corresponds to a cumulative credit loss of about 35%. Considering a recovery rate of 50%, this means that the cumulative default probability implied by the proposed risk correction is about 70%. The observed 5-year cumulative default rates for BBB corporate bonds issued in 2008, which thus includes all crisis years, is somewhere around 1%. Even though central governments have bailed-out several financial institutions, the default probabilities implied by the EIOPA risk correction are very high, especially compared to observed default rates.

Case 2: Unexpected cash flow risk
Since credit losses are not perfectly predictable, it is natural to distinguish between expected credit loss and unexpected credit loss (see EIOPA requirement 3). into a schematic formula, we obtain:

$$RC = \alpha\, ECL + \beta\, UCL$$

Such a decomposition of a risk charge in terms of a best estimate part and the uncertainty around the best estimate is very common. Solvency II has made a very specific choice how to charge unexpected cash flow risks through the risk margin. The charge should be such that the capital costs to maintain solvency each year with a certainty of 99.5% is included over the lifetime of the financial contract. Capital charges and risk margins for default risk under Solvency II are known under the standard formula.
In case of a through-the-cycle risk charge for credit loss, the expected and unexpected credit loss should be modelled by their unconditional mean and risk margin. However, based on requirement 1 and 2, EIOPA seems to prefer point-in-time estimates of the risk correction, which means that the expected and unexpected credit loss should be modelled by the conditional mean and risk margin on the current economy. EIOPA suggests in particular that current credit spreads are related to future credit losses. Although this claim is not supported by the selected literature by EIOPA [2], we have seen in the most recent crisis that increased credit spreads indeed preceded increased migration and default risk.
If we combine the requirements for EIOPA to address expected and unexpected credit risk, as well as to include a dependency on credit spreads, then it is natural to consider:

$$RC = \alpha \max(\mathrm{LTAS},0) + \beta \max(S - \mathrm{LTAS}, 0)$$

The current risk correction of EIOPA has $\alpha = 35\%$ for corporate bonds, which is already quite high compared to historical credit losses for investment grade bonds literature studies. In the literature typically a lower fraction is found for credit losses [3]. In order to calibrate β for the risk correction, the relation between observed credit spreads and credit losses in times of enhanced credit risk can be studied. Note that when credit spreads rise more than actual credit losses during crisis times, then β is expected to be smaller than α. For example in the past crisis, credit spreads for 5-year bonds rose with a factor of 5 to 10 in 2008, while cumulative 5-year credit losses only rose with factor 1 to 2 over the crisis years. As a result, β is expected to be a factor 3 to 5 smaller than α if calibration is based on the most recent crisis. If calibration is based on all crises in financial history a weaker relation is expected [2].
A disadvantage for a risk correction that is too high for lower ratings in crisis times, is that it can lead to procyclical behaviour and forced selling of the corresponding bonds when this is unnecessary.

References
[1] EIOPA, Consultation Paper on the Opinion on the 2020 review of Solvency II

		[2] Giesecke et al., Corporate Bond Default Risk: A 150-Year Perspective, Journal of Financial Economics [3] Huang and Huang, How much of the corporate-treasury yield spread is due to credit risk?, Review of Asset Pricing Studies
2	326	The risk mentioned by EIOPA in para. 2.326 regarding government bonds, could already happen in the current Solvency II legislation. From the evidence presented by EIOPA in their various reports, the behaviour described is not observed. Even now, insurers are still investing in government bonds with negative rates. Naturally, a single insurer could swap exposures in the way described by EIOPA. However, the normal supervisory processes at national level should suffice to deal with these incidents. Enough safeguards are already in place within an insurer, within the Solvency legislation and within the disclosures to avoid these wrong incentives, for example: - An insurer has first to have a risk appetite, risk appetite statements, ALM processes, etc. which deals with the possible exposures across all the opportunities safeguarding the required cash flows to be paid out to the stakeholders. Insurers have multiple perspectives to deal with such as rating agencies; - An insurer has to have an appropriateness assessment of the SCR and its risk profile. This is submitted to the supervisor. Any challenge can be done within this dialogue. The normal set of stress tests within the ORSA could deal with the risk of more risky government bonds or other assets. Especially if there is a concentration to one government. Within the risk management, a policy should exist with respect to concentration risk in broad terms. - In the QRTs all assets are already provided to EIOPA. By assessing one submission to another, any change in allocation can be witnessed. Any opportunistic behaviour can be weed out and discussed between supervisor and insurer.
2	328	Para 2.328 mentions for the undertaking specific VA, risk-corrections as percentage of current spreads. This is an important change compared to the current situation since this is based on long-term spreads. In the current low spread environment, this change could benefit the sector, but this is misleading since in times of stress (which is more relevant, looking at the actual goal of the VA) the compensating effect of the VA will become far smaller, because risk-corrections will strongly move together with increased spreads.
2	335	Para 2.335 (also relevant in other places) mentions risk-corrected spreads per currency. We would like to know how this would work for asset holdings in foreign currencies (which may or may not be hedged). Since these can be used to back insurance liabilities, the excess spreads for these investments will also be relevant when calibrating the VA.
2	342	Para 2.342 mentions the Market – iBoxx indices. Would the current methodology use the different sub-indices (e.g. duration / (non-) financial) in order to minimise basis risk with the undertaking specific investment portfolio?
2	346	An additional advantage to the ones mentioned in para 2.346: certainly would remove wrong risk management incentives to invest in riskier assets to better align with reference portfolio to hedge the VA risk.
2	350	In para 2.350 EIOPA discards the option of a “middle-bucket” VA (combination of current VA and MA). Would it not make sense to introduce a bucket with higher general application ratio, especially since the other proposals of EIOPA all seem to lower the effectiveness of the VA?
2	360	In para 2.360 EIOPA discards the option of adjusting spreads via the market valuation of assets. We agree with this conclusion since this would be a very artificial approach.
2	369	Para 2.369 shows the calculation method for the PVBP of assets. Why does this include the general application ratio? We believe this is only relevant for liabilities and not for assets (i.e. the 65% impact on assets should come from a full 100% spread impact on assets, otherwise it would not be internally consistent). Additionally, we propose to extent this option with elements that in calculating PVBP^FI_i,c, the outcome becomes higher by factoring in (e.g. scaling in?) re-investment assumptions (i.e. effectively increase duration of FI).
2	381	In para 2.381 EIOPA mentions the adjustments for illiquidity. Hereby, it is important that in aggregate illiquidity is taken into account. Therefore, starting at an application ratio of 65% and scaling down based on illiquidity characteristics of insurance liabilities is a double layer of prudency and therefore not appropriate. This also comes back in para 2.410 where the graph shows that the average correction is ~80%, reducing the effectiveness of the VA and introducing conservatism where it is not necessary or required.

2	419	EIOPA asks in para. 2.419 whether a liquidity buffer (defined as 12m incoming liquidity + current cash and deposits - 12m stressed outgoing liquidity) should be used when using the VA. We note that in pillar 2, specifically when using the VA, there are already liquidity testing requirements. The Dutch Association of Insurers does not see necessity for this additional liquidity buffer. If at all, this is more appropriate as a pillar 2 item.
2	441	In para 2.441 and further EIOPA mentions scientific sources. Here it is relevant to keep in mind that it EIOPA tries to extract illiquidity premia from corporate bond investments which in nature have a medium amount of liquidity. The typical investments which exhibit illiquidity are not considered, since analyses such as bid-ask spreads will be difficult to conduct. This will underestimate the true illiquidity embedded in illiquid insurance cash flows when this approach is used.
2	477	In para 2.477 EIOPA presents pro-cons of the proposals. Here it is crucial that the proposals will reduce the effectiveness of the VA in mitigating Own Funds volatility which the Dutch Association of Insurers believe is very undesirable.
2	501	In para 2.501 EIOPA shows an alternative for country specific VAs. The Dutch Association of Insurers would like to know what the added value is of this approach, since a new alternative seems not to be required, especially when the trigger mechanism will occur smoothly instead of in a binary way as it currently does.
2	539	In para 2.539 EIOPA shows impact assessments. Here, the Dutch Association of Insurers emphasises that the appropriate calibration of mortgages is key (currently the Netherlands is the only country which is materially hit by this). Furthermore, the current spread proposal is implicitly included here, which will harm in stressed periods. This means that the current presentation is incomplete.
2	569	In para 2.569 EIOPA proposes no change in the general application ratio of 65%. This is not consistent with the earlier presented approaches for imple-menting changes in the calibration of the VA (such as adjusting the level for duration and liquidity mismatches). Therefore, an increase in the general application ratio would be logical since this level of prudency would not be required anymore.
2	600	In para 2.600 EIOPA mentions supervisory approval procedures and consistency across Member States. It is important here that this will only hold for new applications and that therefore existing arrangements can remain in place.
2	762	In para 2.762 EIOPA proposes that evidence should be provided to NCAs to make dividend payments possible when the Solvency II ratio would drop below 100% for the combination of the shocks mentioned below. This is an extremely strict requirement and completely not in line with the principles of Solvency II. By introducing separate requirements for dividend payments for “shadow Solvency II ratios” which will be far lower, the confidence of financial markets and policyholders in the European insurance sector will decrease and this will not lead to a balanced overall result of the Solvency II 2020 review. The combination of shocks are: - Non-application of the VA (and MA and transitionals) - LLP equal to swap deep, liquid and transparent maturity (i.e. 50 years) - Decrease of the UFR with 100 bps
2	821	In practice, after the recently introduced long-term equity investments by means of an average holding period (Article 171a Delegated regulation) strong disincentives to invest in equity remain. This is because transactions reduce the average holding period and it is unknown for which holdings transactions are necessary for risk management reasons (in the interest of the policy holder) going forward. Therefore the insurer cannot afford to take the lower SCR percentage: a transaction for risk management reasons could have as a consequence that substantially more capital is required after the transaction, thus complicating risk management. Long term investing is a phrase which is also used in the framework of sustainability policy. After the initial definition of “long term investing” by means of an average holing period in the Delegated Regulation on the 2018 review of Solvency II (article 171a), it is possible that this way of defining sustainable investing or long term investing (which are often synonyms in policy papers from Brussels), it needs to be explained that this is not a good way of defining long term investing or sustainable investing. It in fact works counterproductively and certainly does not encourage more long term equity investment.

"Long term investing" is a method and a process for investing and not a timeframe. The investment policy and risk management policy are drawn up with mainly the interest of the policy holder in mind. A time-based definition of long term investing through for example average holding periods would harm portfolio risk management of the insurer, which is done in the interest of the policy holder.
We propose to repair this by recognising that transactions done in an insurer's investment portfolio do not have to be included towards a target holding period when they are done because of risk management reasons and they follow from the insurers long term investment policy and risk management considerations (including duration matching and changing cash flow expectations).
We will explain further below.
Insurers are long term investors. That means they have a long investment horizon. Like all institutional long term investors, insurers see long term investing as a method of investing, where the process of risk management in the interest of the policy holder is paramount. It is not a type of investing that requires the investor to hold his investments for an (average) fixed period of time, regardless of the consequences.
Insurers are not passive investors which buy assets and never sell them again, because that would interfere with the risk management necessary to avoid most risks related to investing. Because of its risk management, an insurer's investment portfolio is always an actively managed portfolio. A buy-and-hold strategy is not the same as a passive buy-and-forget strategy. Buy-and-hold still implies risk management measures and therefore is never a purely passive strategy.
To manage its investment risk, an insurer develops an investment policy, the most important elements of which are its risk appetite, diversification of its investments and managing correlations and concentration risk.
Asset - Liability Management is a key process of an insurer providing protection for policyholders by risk immunisation and risk reduction. The Asset-Liability Management (ALM) principles to reduce risk and optimise returns for policy holders are measures on a portfolio level and not on the level of individual assets and/or liabilities. Buying and selling individual assets for risk management reasons does not change the investment strategy with regard to the policy holder. Exchanging one asset for another reduces the average holding period for the portfolio, but it does not necessarily significantly change the risk or return (for the asset or the portfolio). A rare exception would be (forced) selling of bonds for reasons of claim payments. This is rare, because in general, insurers will hold enough cash and liquidity to avoid forced selling in any circum-stance.
In its investment policy the insurer decides i.a. on the most fundamental strategic asset allocation, a split between equity and bonds and other asset classes, such as cash) and a risk management policy. This split will be different between the return portfolio and the matching portfolio, but the principle is the same. Risk management also leads to internal risk tolerance or diversification rules for holdings of securities, such as:

- a maximum percentage of his own portfolio for a holding of a single issuer (concentration risk vis-à-vis the issuer, i.e. the government or the company),
- a maximum percentage of the issued equity and/or debt of that issuer,
- a high rating, such as "investment grade" (usually the top half of a rating agency's scoring) as an indication of default risk.

The risk tolerance rules for the matching portfolio of an insurer are directly linked to the interests of the policy holder, because they make more certain that the insurer can meet his obligations to his policy holders. In his matching portfolio an insurer matches the duration of his investments with the duration of his liabilities. An average holding period of any length limits the scope of matching portfolios that are eligible for equity to portfolios matching liabilities with a longer average duration than the mandatory minimum.
To meet his risk tolerance rules, the insurer needs to occasionally buy or sell stocks or bonds. In both cases this reduces the average holding period of the portfolio in both the re-turn portfolio and in the matching portfolio. If he doesn't, it negatively affects the interest of the policy holder because the investment risk will increase. As the following will show, it can also discourage more sustainable investments and more sustainable commercial activities of companies.
Due to developments in financial markets, in the course of time, the market prices of assets will change, and therefore the values of the various segments of the portfolio will change. That is called market risk, and that is why institutional investors invest in a return portfolio: to earn the return that corresponds with the risk taken. In the case of the matching portfolio, the insurer usually has a buy-and-hold strategy for bonds and matches the duration of his holdings (equity as well as bonds) with those of his liabilities. His only risk in this portfolio is not market risk, but counterparty default risk (in case the issuer defaults

and does not pay back the principal amount). All other risks involved, such as macro-economic changes and firm-specific risks are managed by the insurer, by diversifying them away.

Diversification means basically not holding all eggs in one basket (not just holding stocks but also bonds, not holding just one company or government, but dozens, hundreds or more) and on not holding only eggs in one basket (correlation: making sure that prices of assets are not connected and do not move the same way under the same circumstances). Diversification is done by investing in different industries, different companies in those industries, different currency areas, different geographic regions and different asset classes (for example, equity, bonds, real estate, commodities, infrastructure, money market instruments, etc.). [Note: Mathematical analysis has shown that a diversification strategy needs to invest just 20 to 30 separate, uncorrelated titles. The reason that institutional investors invest in many more different assets is that (1) investible assets are hardly ever perfectly uncorrelated, and (2) institutional investors have other risk tolerance constraints that prevent them from investing, for example, a large part of their assets in one company's shares or one government's or company's bonds. See for example Meir Statman, How many stocks make a diversified portfolio?, Journal of Financial and Quantitative Analysis, volume 22, pp. 353-363, September 1987; Vitali Alexeev, Francis Tapon, Equity portfolio diversification: how many stocks are enough?, Evidence from five developed markets give an extensive list of earlier studies with the same result. See also Olivier De Keyzer, Michiel De Schaepmeester, How many stocks does an investor need to diversify within Europe?.]

It is therefore not only, and not even mainly, the price of investments or the short term change in returns that leads to action by the insurer, which in turn results in a decreasing average holding period. There are also other developments that can change the risk profile of the investment portfolio compared to the intended investment policy and risk tolerance. All these require action to protect the interests of policy holders. Some examples are:

- Follow-on Public Offering (FPO). After an initial public offering (IPO) of stocks or bonds, in which the company went public, the company may do a follow-on public offering (FPO), expanding the number of shares or bonds issued.
- Share or bond buyback. The opposite of a public offering is a buyback or repurchase, with the opposite options to a follow-on public offering. This reduces the number of shares or bonds issued.
- Dividend policy. For asset-liability management reasons, an insurer may set a minimum level of expected dividend yield. A change in dividend policy of a company can therefore cause the insurer to re-evaluate his holding, because dividends may go up or down and (as a result) the share price could change. The dividend policy can change from for example no policy or an irregular policy to a regular dividend policy (the company pays out every year) or a stable dividend policy (the company pays a fixed) or a combination of regular and stable (which is ideal for a matching portfolio).
- Macro-economic changes in the environment of the investee company. For example inflation and inflation risk, interest rates, currency exchange rates and shifts in the business cycle may change in the environment where the investee company sells its products or finds its suppliers or investors. Nota that an interest rate change will usually not affect an insurer's decisions on his bond holdings, even though their market price may change, because the insurer will try to immunise his bond portfolio from exposure to interest rate fluctuations, by i.a. holding the bonds to maturity, i.e. until their expiration date (buy and hold).
- Strategy change of the company or government. A strategy change of a government (such as increasing or decreasing government spending) or a strategy change of a company, such as focussing more on sustainable business lines and sustainable products, can cause the insurer to re-evaluate his holding.
- ESG strategy change. Similarly, if the insurer is not invested yet in this company, for example for ESG reasons, and the company changes his "brown" strategy to a "green" strategy, the insurer will have to decide whether he will (i) increase his holding, (ii) decrease his holding, or (iii) not change his holding.
- Specific factors affecting a government or company may also cause the insurer to re-evaluate his holding. An example is a company taking out a large bank loan or issuing a large new bond, thus increasing leverage and making a stock investment riskier. Another example is the Deep Water Horizon incident where a British Petroleum oil well in the Mexican Gulf polluted large stretches of coast and the sea water. Another example is Volkswagen's

		Dieselgate, where emissions from VW diesel engines were manipulated to be lower in testing circumstances than in ordinary driving circumstance. The revelation in 2010 that Greek government debt was grossly underreported is an example that these things do not only happen with companies. An investee company may turn out to have labour conditions below those acceptable according to the UN Sustainable Development Goals. • Rating change of bonds. If a rating agency changes its rating on a corporate or government bond, the default risk changes, and with that the risk that the principal sum of the investment does not get paid back. • The insurer will have to decide whether he will (i) increase his holding, (ii) decrease his holding, because the bonds have become riskier, or (iii) not change his holding. • Entry into or exit from an index. A share or bond may become part of a share index (such as the Dow, S&P 500 or the FTSE) or may be taken out of it. Being part of an index usually increases the liquidity of the share in question (because index-funds are more likely to buy them and most institutional investors prefer stocks or bonds that are in an index for liquidity reasons; see for example Suleyman Basak, Anna Pavlova, Asset prices and institutional investors) and often also its price. The level of liquidity can be important for institutional investors such as insurers. • Shareholder engagement in the context of sustainable investing only has "teeth" if the investor can credibly threaten to divest if a dialogue with the company does not end well. If an investor is constrained by the requirement to hold his investment portfolio for an average of a number of years, this discourages divesting in the case of unsuccessful shareholder engagement and makes shareholder engagement a weaker tool than it currently is. All the above developments can cause a breach of strategic asset allocation and will cause breaking the rules on risk tolerance and eventually lead to a portfolio rebalancing, to bring the actual holdings (tactical asset allocation) and actual risk in line with the strategic asset allocation and the accompanying risk tolerance. Such a rebalancing is usually done periodically (for example once a year), but could also be done as a more immediate reaction to one or more of the changes described above. The above causes of transactions are all related to developments in capital markets. There are also reasons driven by developments in the insurer. Some of these are: • Duration matching and bucketing. Precise cash flow matching between assets and liabilities is impossible because the extremely long term cash flow profiles of liabilities, particularly in life insurance, but also in non-life insurance (for example long running bodily injury cases under liability insurance) do not exist for assets. That is why insurers fall back on duration matching sometimes supplemented with (period) bucketing. Every year that passes will remove the first year layer of the cash-flow profile and at the end a year will be added that could be matched exactly. So, the to-be-matched-cashflow-profile is changing slightly each year, resulting in investment transactions. • Changing cash flow expectations. In addition, expected cashflow profiles depend on lapse rates, retention rates, interest rates, volume of new business and claims (for example an improved treatment for cancer could alter mortality). If these parameters turn out to deviate from expectations the changing expected cash flow profile leads to buying and selling of assets to optimise the match for the new situation and thereby to maximise the protection of policy holders. • Tax related reasons. Limitations in the carry forward and/or carry backward period of fiscal losses may require a sale of assets (realisation of fiscal profits) in order to prevent unnecessary tax payments (which are not in the best interest of policy holders, because unnecessary tax payments reduce returns and/or increase costs). • Changes in investment policy and or risk tolerances. Policy updates will most likely lead to changes in the investment portfolio.
2	1.008	The extension EIOPA mentions in para. 2.1008 should indeed be granted based on individual circumstances. In the current legislation an insurer should recover from a breach within a few months unless a market wide severe stress would make recovery impossible and the supervisor agrees with an extension of the recovery period up to several years. This approach does not consider the long-term nature of insurance. If solvency is too low, but cash flows have been matched and liquidity is available, time will solve the problem automatically. Other measures such as de-risking, could improve short term solvency, but will deteriorate capital generation and long-term viability. Moreover, supervisory intervention would lead to a *de facto* run off scenario, which is almost

		similar to the automatic recovery by the taking-time scenario mentioned above. Supervisory intervention should only be triggered if policy holder losses are expected. In a well-matched situation with sufficient liquidity to avoid forced selling of assets, the recovery period from a breach caused by market movements should be extended to the portfolio duration. So it should be up to the supervisee insurer to come up with a realistic recovery plan, which could include taking time enabling the cash flows to do their work.
3	32	EIOPA was asked to examine diverging practices (see CfA 3.17) but para 3.32 does not address diverging practices.
3	51	The Dutch Association of Insurers notes re. para. 3.51 that the current definition of contract boundaries differs between SII and IFRS17. IFRS17 for instance doesn't have the condition that "in the case of life insurance obligations where an individual risk assessment of the obligations relating to the insured person of the contract is carried out at the inception of the contract and that assessment cannot be repeated before amending the premiums or benefits, insurance and reinsurance undertakings shall assess at the level of the contract whether the premiums fully reflect the risk for the purposes of point." For certain products this will lead to different contract boundaries, which in turn will affect valuation, pricing and asset-liability matching. We propose investigating as a fourth option whether SII and IFRS17 definitions can and should be aligned.
3	144	According to para. 3.144, EIOPA sees no reason to evaluate the fixed CoC rate of 6% despite receiving urgent feedback from the insurance sector concerning flaws in its calculation. Insurance Europe published a revised calculation which was compliant with the prescribed method but resulted in different results (approximately 4%, or even 3%). See for more information the paper published by Insurance Europe https://www.insuranceeurope.eu/sites/default/files/attachments/Comments%20on%20amendments%20to%20Solvency%20II%20Delegated%20Regulation_0.pdf
3	201	The variations (on RM interest rate sensitivities) mentioned in para. 3.201 are probably partly due to the prevalence of different products in different national markets. As is the case with most features in SII, they suit some insurers and are irrelevant for others. SII was not meant to converge social and fiscal policies into one framework but should adapt its regulation to suit different markets / products. Some products, especially the LTG business, are severely negatively affected by (1) high capital requirements, (2) burdensome calculations and (3) unfit measures (such as the VA). As a result the LTG business is decreasing fast because premiums are too high and small insurers are being consolidated into bigger ones because requirements are too burdensome. We believe in impact analyses; drawing conclusions based on averages is wrong. EIOPA should consider detrimental effects at business / country level.
3	203	The results set forth by EIOPA in para. 3.203 may be as expected but that does not make them okay. For a possible solution Brian Woods says the EIOPA formula for the risk margin should consider the current low interest rate environment. In his submission to CEIOPS, now known as EIOPA in a 2009 consultation, on the Level 2 implementation of the risk margin, Dutch actuary Hans Waszink drew attention to a fundamental flaw in the proposed formula. He pointed out that, in certain conditions, the risk margin could be even higher than the solvency capital requirement (SCR) itself. This incongruity has been of little practical significance in most situations, but in the current low interest rate environment and for long-duration obligations such as longevity it can and does produce very anomalous outcomes. Central to the issue is the economic status of the risk margin. Is the risk margin itself capital, requiring an economic return more than the risk-free rate? Companies may indeed regard it as simply another form of capital, but it is quite clear that the SII directive does not regard it so. According to the directive, the SCR is the capital and the risk margin is there to ensure that it, the SCR, earns an economic return. There is no equivalent requirement for the risk margin itself to enjoy an economic return more than risk free. The fact that the SII directive does not regard it as capital needing its own economic return, has inexorable implications. For example, the risk margin is in these terms 'certain' to be released over time, by which I mean its risk of not being so released is deemed to be below the threshold that would require an economic return more than risk free. In other words, the cost of capital on the SCR, which will be funded by the unwinding of the risk margin, is in this sense economically certain to be enjoyed. Just to labour the point, the SCR itself may be at risk of being fully consumed, but its cost of capital is, in the sense described, effectively certain to be realised and, as is shown below, this could be substantially higher in present value terms than the SCR itself. We believe that it would not be reasonable for market participants to require this level of certainty of achieving the cost of capital.

		As a further illustration, and one which points in the direction of the correct formula, the premise of the SII directive is that the risk margin itself does not need an economic return more than risk free and so, by that logic, it could in principle be financed at the risk-free rate. This leads to the conclusion that it is the difference between the SCR and the risk margin that needs to be remunerated, with a cost of capital more than risk free. The thrust of the EIOPA formula is as follows. The projected release of the SCR over time is determined using current best estimates. For each year that an amount of SCR is still required on the balance sheet, the cost of holding this capital is calculated as 6% of its amount. The risk margin is then calculated as the value of these projected costs of capital discounted using current risk-free rates. It is easy to see that for very long durations the discounting of a 6% requirement at current low risk-free rates could be higher than the capital itself. For example, for an SCR that is required for 20 years, the risk margin using a long-term discount rate of 2% a year is 98% of the SCR and for 40 years it is 164%. We believe, and this follows Waszink's original submission to CEIOPS, that the correct approach is to calculate the risk margin using a formula that is based on requiring the difference between the risk margin and the SCR to earn a cost of capital of 6% a year. In the same example, over 20 years, the risk margin would be 68% of the SCR, and, for 40 years, it would be 90%. It would always be less than 100%, as there is always a residual value in the possibility that some SCR capital will be ultimately released. There have been various comments of late about the volatility of the risk margin formula, but most comments seem directed at the level of the cost of capital rate – 6%. This, in our view, is missing the key flaw, which is in the underlying formula. See the included paper from mr. Waszink for more details.
3	209	Regarding para. 3.209 we would like to comment that the risk margin (RM)is meant for transferring an insurers portfolio and can be seen as an extra layer of protection on top of the solvency requirement. So the risk margin is a prudency measure. Sadly, this measure is itself again calibrated prudently, thereby hurting policy holders. Instead of protecting policy holders, the RM is making long term insurance products with high insurance risks less affordable. As confirmed by EIOPA, interest rate sensitivity exists, especially for long term guarantee products and products with high underwriting risks. EIOPA considers only one option solving the issue which they subsequently discard quickly without proposing something else. Considering that SII review's focus should be solving the long-term guarantee flaws in SII legislation this leads to questions. Making the RM less sensitive for interest rates could be achieved simply by changing the RM discounting by using a flat UFR rate or another to be determined fixed rate. In addition, we would like an explanation as to why EIOPA has not investigated any reason to change the CoC rate, as this was reviewed in detail in the 2018 Review, as part of the Second set of Advice to the European Commission on specific items in the Solvency II Delegated Regulation in 2018. We refer to the work performed by Insurance Europe concerning the CoC rate.
3	210	EIOPA seems to not acknowledge in para 3.210 that the low interest rate environment would also need changes in the risk margin, especially given the LLP options and disclosure requirements that EIOPA does consider. Given the negative implications of potential changes in the LLP, a change in the risk margin would be a natural mitigating factor, since in the low interest environment, the valuation of the risk margin will become more excessive.
3	149	In para 3.149 EIOPA mentions that it is not within its mandate to make changes in the risk margin by for example introducing a rate-dependent cost of capital rate. We do not believe this argument is very strong, since this point could also be addressed by generic changes to the risk margin, such as lowering the overall cost of capital rate.
3	190	In para 3.190 EIOPA mentions the option of including the VA in the valuation of the risk margin. Although this seems positive from a discounting point of view, it should be kept in mind that this will also introduce SCR for market risks in the calculation of the risk margin, which will increase the risk margin. We note that EIOPA does not propose changes in this respect.
3	202	In para 3.202 EIOPA mentions that the impact of the risk margin over BEL ratio is limited for strong interest rate movements. Although an impact of for example 25 bps seems limited it should be kept in mind that in euro-terms this is a large amount. Furthermore, an impact of 25 bps compared to the initial risk margin / BEL ratio is not immaterial. Furthermore, it is surprising to see that interest rate increases have been analysed here.
4	68	The Dutch Association of Insurers agrees with the advice of EIOPA. However, we would like to continue the discussion on the tiering of the participant account in a mutual insurer, which was left open when Solvency II entered into effect on January 1, 2016. By way of background we refer to the letter by the European Parliament to the European Commission of December

		19, 2014 (D(2014)62142), the reply by the European Commission of January 27, 2015 (PD/rv((205)161889), a reply to that Commission letter by the European Parliament of April 1 2015 (306043) and a further letter by the European Commission of May 11, 2015 (AV/rv(2015)1779031). Article 69, Delegated Regulation on the list of own-fund items for Tier 1 capital says that i.a. paid-in initial funds, members' contributions or the equivalent basic own-fund item for mutual and mutual-type undertakings(ii) and paid-in subordinated mutual member accounts (iii) “shall be deemed to substantially possess the characteristics set out in Article 93(1)(a) and (b) of Directive 2009/138/EC, taking into consideration the features set out in Article 93(2) of that Directive, and shall be classified as Tier 1, where those items display all of the features set out in Article 71”. The last part of the sentence, “where those items display all of the features set out in Article 71” is where the Delegated Regulation goes ultra vires, because the level 1 directive (in particular article 93 and 94) does not allow this restriction. Article 94 of the S II directive says an item may be classified as Tier 1, when it “substantially possesses” the characteristics required for that Tier. The essential criteria for qualifying as Tier 1 capital are set out in article 93 of the S II directive and they are: a. Can the item be called upon to fully absorb losses on a going-concern basis, as well as in the case of winding-up (permanent availability); b. in the case of winding-up, the total amount of the item is available to absorb losses and the repayment of the item is refused to its holder until all other obligations, including insurance and reinsurance obligations towards policy holders and beneficiaries of insurance and reinsurance contracts, have been met (subordination); c. due consideration shall be given to the duration of the item mentioned in point (a) and (b), in particular whether the item is dated or not. Where an own-fund item is dated, the relative duration of the item as compared to the duration of the insurance and reinsurance obligations of the undertaking shall be considered (sufficient duration); d. it has to be considered whether the item is free from requirements or incentives to redeem the nominal sum (absence of incentives to redeem); e. whether the item is free from mandatory fixed charges (absence of mandatory servicing costs); and f. whether the item is clear of encumbrances (absence of encumbrances). We believe the participants account of a mutual insurer meets these 6 criteria because: The funds in a participants account at a mutual insurer are permanently available to fully absorb losses (a) and it is subordinated (b). If the solvency of the mutual insurer is endangered when a participant wants to terminate participation in the mutual insurer, he/she cannot take his/her funds out of the participants account. The item is not dated (c), the participant has no date available at which time he/she might expect the funds to be paid back and there are no incentives to redeem (d). Participants also generally meet conditions (e) and (f). Additionally, if there are doubts about the question whether the participants account of an individual insurer meets the requirements, this should be assessed on an individual basis and not generally or categorically for all mutual insurers at once.
4	103	The issue identified by EIOPA in para. 4.103 as double leverage in essence seems to concern perceived encumbrance. In lower capital management zones, regulators already have policy tools to prevent distributions from the insurance opco’s. As such the proposed policy implementation with regard to the funding mix of a top holding (topco) or holding company (holdco) is not necessary. EIOPA refers to "excessive double leverage" when the sum of the tier 1 capital of the solo's is in excess of 100% of the tier 1 capital of the parent. We do not understand why this is deemed "excessive". Such a situation can easily be obtained because of intragroup transactions between entities and the group if the entities are valued at their sectoral requirements and because of internal reinsurance.
4	104	For many unlisted entities, issuing a debt instrument or subordinated liabilities is the only possibility to obtain external capital.
4	105	EIOPA describes here a very extreme case, where the group has no opportunity to have any other proceeds than distributions of that one insurance entity. The group can also have investments or other participations.
4	160	We agree with EIOPA's proposal not the change the treatment of EPIFP.
5	29	We believe the UFR should not be shocked. Or at most to shock it in a consistent manner with EIOPA's methodology (max 15 bps in one year).

5	148	Regarding para. 5.148, we observe that decreasing interest rates as a response to falling asset prices are unlikely if rates are already negative, which is currently the case at many durations. It could be argued that correlation should depend on the interest rate level.
5	150	In para. 5.150 EIOPA disregards the risk management perspective in the pro and con arguments of keeping two correlation matrices. As insurers are immunising their balance sheet for interest rates the up- and down- sensitivity, normally they (i.e. the correlation matrices) will not differ much creating a cliff edge effect when upward sensitivity flips to downward sensitivity. Insurers often hedge their interest rate sensitivity to a great extent. For single risk SCR calculations, the maximum should be used of an upward shock and downward shock, each with its own correlation matrix. Because of the hedging practices these shocks give almost the same results and could flip over easily. Solvency however, jumps with several percentage-points at flipping point because a different correlation matrix must be used. Avoiding this unwanted volatility could lead to suboptimal hedging strategies. In our opinion there should be only one correlation matrix irrespective of the active interest rate scenario.
5	171	The Dutch Association of Insurers believes that in para. 5.5.4.4. and 5.5.5.3 correctly aligns with CRD 3.5. Guarantees where first re-course has to be sought with the debtor, before the guarantee can be invoked, also have to be brought under the scope of article 215 sub d Delegated Regulation. This achieves a level playing field with banks. EIOPA says the same thing in para 5.203. But when we read the proposed legal text, we are not convinced that it says what it is meant to say. The proposed text reads: "provisional payment by the guarantor…'. The 'guarantor' seems to be in the Dutch situation the Mortgage Guarantee Fund (NHG). We would like to know whether the text should not read "borrower" or "debtor" instead of "guarantor".
5	194	See our comments under para. 5.171.
5	195	As the graph of guaranteed sum per country in para. 5.195 clearly shows, the usage of certain products or features is very country specific . Therefore, the 2020 impact assessment should be conducted at least at country level too. The statement of mr. Bernardino to the European Parliament on November 4, 2019, that the overall effect of the changes should be neutral (except for interest rate risk), should apply on country-level too.
5	202	We agree with the option chosen by EIOPA with respect to the partial guarantees. But please see our comments under para. 5.171.
7	137	Re. para. 7.137 and 7.138, the Dutch Association of Insurers opposes the introduction of an audit requirement for the group and the single SFCR (the Solvency II Balance Sheet) as this would create unnecessary additional administrative burden for groups. This is in particular the case for groups that operate in jurisdictions where the regulatory information is not subject to statutory audit under local regulations, specifically in equivalent regimes. Sub-jecting the Group and Single SFCR to audit requirements would effectively drag in information of these local entities in the scope of an audit, while they may not be subject to audit requirements under their own regime This would be inconsistent with the principle of equivalence. Furthermore, this would require auditors in these jurisdictions to perform audit activities on information that they need not to audit locally.
8	18	A major obstacle in the proportionate application of Solvency II is the burden put on small and medium-sized entities (including captives and new market entrants such as InsurTechs) in the application and proof of eligibility for the application of Solvency II requirements in a way which is proportionate to the nature, scale and complexity of their inherent risks. In response to this observation, the Dutch Association of Insurers and Insurance Ireland proposed that a certain set of measures might apply to an eligible group of small undertakings by default. As correctly stated in this consultation, these measures would not lead to lower own funds requirements but to a decrease of the administrative burden and compliance burden. Furthermore, it is crucial to note, that the application of Solvency II in a proportionate way by default can be challenged by NCAs. In cases where the NCA proofs that the nature, scale and complexity of the risks inherent in a company are disproportionate to the measures of the proportionality toolbox, the NCA might request the insurer to comply with the regular Solvency II provision. Thus, the approach taken in the Solvency II toolbox, suggested by the Dutch Association of Insurers and Insurance Ireland, neither exempts insurers from supervisory oversight nor from appropriate consumer protection. As a consequence, we do not understand why EIOPA and NCAs consider the approach a limitation of the scope of Solvency II. In contrast to EIOPA's statement, the proportionality toolbox proposed by the Dutch Association of Insurers and Insurance Ireland does not contain a threshold of € 50 mln.

8	28	In contrast to EIOPA's statement in para. 8.28, the proportionality toolbox proposed by the Dutch Association of Insurers and Insurance Ireland is not "primarily based on the size of the insurance company" and does take sufficient account of the individual risk profile of the insurance company. We do that by making the toolbox dependent on the type of insurance products (i.e. the nature, scale and complexity of the risks): our proposal does not apply to insurers which sell class 10 (Motor vehicle liability), liability in class 3 (Road transport liability), class 11 (Aircraft liability), class 12 (Liability for ships), class 13 (General liability), class 14 (credit) and class 15 (suretyship), unless these are ancillary risks. Curiously, in EIOPAs proposal in para 8.44, there is no mention of other criteria than size. Perhaps we need to clarify that the idea of a proportionality toolbox aimed at smaller and less complex insurers is not replacing the general application of the principle of proportionality as such. The aim is to provide for more consistency of the application of the principle across the EU and to simplify the governance on the proportionate application of Solvency II for insurers and NCAs alike.
8	29	We do not understand why EIOPA would, in para. 8.29, consider "The initial decision would be burdensome for both undertakings and NSAs and the monitoring of the decision would be very difficult considering the reduced supervisory reporting in place." EIOPA is itself proposing to reduce reporting requirements and introduces a "basic" set of QRTs in its previous consultation on reporting and disclosure. Although EIOPA's proposal for a "basic" set of QRTs involves different QRTs than the Irish-Dutch proposal, the concept is the same. However, we do not believe that the identified basic QRTs are appropriately narrowed to fit its own definition.
8	30	In para. 8.30 EIOPA says that the SME definition "did not had in mind regulated and supervised activities where policyholders protection is at stake". This is true, the European Commission's definition is a general one, with no specific sector of the economy in mind, regulated or unregulated. It is, however, possible to apply the definition in making rules for small and midcap corporations, as has been done in the Prospectus Regulation (where investor protection is at stake) and in MiFID/MiFIR (where investor protection is also at stake, with particular attention to retail investors). The Dutch Association of Insurers and Insurance Ireland do not propose a similar separate regime, but we propose a toolbox for smaller and less complex insurers. The reason for this is that we are thinking of insurers with usually relatively small numbers of staff and relatively small budgets. The SME definition therefore seems appropriate to us. They should not be exposed to disproportionate administrative and compliance burdens and the principle of proportionality can address that.
8	31	The Dutch Association of Insurers and Insurance Ireland agree that the proportionality principle should not, as EIOPA states in para. 8.31, lead to a one-size-fits-all approach. Therefore, we propose eligibility of predefined measures by default to smaller and less complex insurers to improve the proportionate application of the regulatory provisions on the principle of proportionality itself. That is why we have set eligibility of our proportionality toolbox at a combination of relatively small size (upto € 50 mln.) and not-so-risky insurance products (see our comments on para. 8.28).
8	32	Regarding para. 8.32, we observe that the fundamental problem with EIOPAs approach to proportionality is, that proportionality only works if and when the NCA takes the initiative to introduce proportionality measures. Some NCAs have done that and some have not. EIOPA's proposals do not solve this fundamental problem. Therefore the Dutch Association of Insurers and Insurance Ireland have taken the initiative to support the practicality and governance on and make proportionality more explicit in the legal texts themselves. Proportionality should be about the nature (of risks insurers ensure), scale (of which size in terms of premium income and technical reserves is a good indicator), and complexity (of the organisation and its products). Our proposed proportionality toolbox has major benefits for policyholders, because (1) we do not propose a reduction in capital requirements, so the policyholder is still protected and (2) it would result in lower costs for the insurer and thus indirectly and over the longer term, lower premiums for the policyholders.
8	44	The Dutch Association of Insurers are grateful to EIOPA for thinking of the solution in para. 8.44 to create a Member State option at € 25 mln. A member state option takes into account the different sizes of different markets and market structures. EIOPAs text is not entirely clear. We would like to know whether EIOPA intends to propose to raise the threshold to € 10 mln. in the whole of the EU and have the € 25 mln. as a Member State option?

		And if € 25 mln. is a Member State option, we would like to know why the Member State optional threshold is not raised to € 100 mln.? At € 100 mln., the Member State option would not only take into account national insurance markets with large numbers of smaller insurers, but also of national insurance markets where the relative size of relatively smaller insurers is larger. In that way, proportionality would work both " downward" and "upward".
8	110	EIOPA is considering two different approaches to enhance proportionality in the framework by introducing further simplifications to the calculation of the SCR standard formula, namely (Option 2) a set of simplified calculation of capital requirements for immaterial risks or (Option 3) an integrated simplified calculation of capital requirements for immaterial risks. The Dutch Association of Insurers and Insurance Ireland strongly support a more proportionate application of Solvency II. We believe that a non-exhaustive list of measures to increase the proportionality of pillar 1 calculations should be developed. The measures on this list could be used as examples and could facilitate the work of NCAs with regard to eligibility and appropriateness of certain tools. In line with the idea of the proportionate toolbox, we strongly support such an approach. Along the same lines, EIOPA could be tasked with collecting best practices of NCAs applying Solvency II proportionately and make these best practices available to all NCAs.
8	174	In para. 8.174, it seems that EIOPA is of the view that the combination of Management Board member and key function holder should only be allowed when certain conditions are met. This will lead to avoidable discussions with the NCA. Given i.a. the importance to ensure there is sufficient risk management knowledge available at decision making level and to ensure a clear risk governance (including responsibilities and accountabilities), we would like to emphasize that a model where the CRO is key function holder and a Board member, is a good model, provided the other management board members can effectively challenge the CRO. In connection with para. 8.178 of the EIOPA draft advice, the Dutch Association of Insurers and Insurance Ireland would like to note that we propose that non-life insurers with a maximum of € 50 mln. premium income, who do not insure risks class 10 (Motor vehicle liability), liability in class 3 (Road transport liability), class 11 (Aircraft liability), class 12 (Liability for ships), class 13 (General liability), class 14 (credit) and class 15 (suretyship), unless these are ancillary risks, should only be required to have an actuarial function (either outsourced or in-house) if they sell insurance contracts with a duration of more than 4 years. To be sure: life insurers, in our view, always need an actuarial function. We see this as an explicit implementation of the principle that the system of governance should be proportionate (art. 41(2) + recital 31 of the Solvency II directive 2009/138/EC). Re. para. 8.174 of the EIOPA draft advice, the Dutch Association of Insurers and Insurance Ireland observe that, according to art. 45(2) of the Solvency II directive (2009/138/EC), the ORSA process must explicitly be proportionate. We therefore propose a template for a proportionate ORSA, which we source from the Central Bank of Ireland (the Low/Medium Low ORSA Template) should apply to insurers with a maximum of € 50 mln. premium income, who do not insure risks class 10 (Motor vehicle liability), liability in class 3 (Road transport liability), class 11 (Aircraft liability), class 12 (Liability for ships), class 13 (General liability), class 14 (credit) and class 15 (suretyship), unless these are ancillary risks. According to the EIOPA Guidelines on ORSA (EIOPA BoS 14/259), para. 1.4, the insurer should decide how to perform the ORSA given its nature, scale and complexity of the risks. We believe that this proposal is a good way to bring this proportionality to life in practice for the large number of smaller insurers in the EU. The questions the Central Bank of Ireland asks are standardised, but the answers are (obviously) not. It will help guide these insurers to create a high quality, yet proportionate ORSA. The standardisation of the measures would further enhance convergence and transparency in the proportionate application of Solvency II.
8	175	The Dutch Association of Insurers and Insurance Ireland would like to highlight the dependency of the EIOPA proposal in para. 8.175 and in para. 8.179 on how the conditions are elaborated in which will be set in the subordinated regulations on Solvency II (level 2 and level 3 texts). Notwithstanding the assessment in para. 8.175, the Dutch Association of Insurers believes that the combination of key functions, a combination of key functions with operational functions and the combination of the position/role of key function holders with the position/role of member of the AMSB, as mentioned in para. 8.175 of the EIOPA draft advice, should only be linked to the proposed conditions b and c, and not to condition a. The reference to

		condition (a) suggests that combinations are only available to smaller and less complex insurers and insurance groups. Conditions b and c already sufficiently ensure good governance and at the same time avoid the unjustified suggestions that these combinations should only be available to smaller insurers. We do not see a rationale for such a limitation. Furthermore, we believe it is necessary to explicitly clarify that combinations of functions are not inherently problematic. In practice, a very common combination of a key function with another function is the combination of the legal function with the compliance function, where the key function holder for compliance has – next to unrestricted reporting capabilities to the AMSB (i.e. to the collective corporate body) – an organisational reporting line to a person that bears equal organisational responsibility for both functions. This could be the general counsel (or head of Legal & Compliance), who in turn could be (but does not need to be) a member of the AMSB. We consider compliance and legal to be compatible functions. We strongly believe, and have experienced this in practice, that these governance structures can be structured in a way that allows for an operationally independent and sound execution of the function in accordance with the Solvency II principles, and allows for the adequate management of conflicts of interests. In addition, although the '3 lines of defence' model is often used and/or referred to in practice, too much focus on this model is problematic, because not all activities that are part of the key functions according to Solvency II fit neatly in this model. For instance, a part of the activities of the compliance function (e.g. advising on compliance with laws and regulations and on the impact of changes in regulation on the operations of the undertaking) could be equally well performed by the legal or the compliance function (or partly by both, depending on the nature of the requirements). Therefore, the compliance function usually has both 1st and 2nd line elements in it. It must be remembered that, although much used, the 3 lines of defence model is only a model.
8	176	The EIOPA proposal in para. 8.176 does not include an ORSA. On p. 146-147 of the Impact Assessment, EIOPA says that: "option 2a.2 (standardised ORSA supervisory report for small/less complex undertakings) is deemed to have a negative impact with respect to the objective of promoting good risk management and improving proportionality." The Dutch Association of Insurers and Insurance Ireland do not understand why. In the case of (re)insurers with a small scale, by nature not very difficult products (as we mention in our comments on para. 8.28) and a not very complex structure, a standardised ORSA should not interfere with good risk management, and does meet the proportionality principle.
8	178	The Dutch Association of Insurers and Insurance Ireland refer to their comments on para. 8.174 of the EIOPA draft advice.
8	179	The Dutch Association of Insurers and Insurance Ireland refer to their comments on para. 8.175.
8	181	EIOPAs proposal in para. 8.181 says: "Insurance and reinsurance undertakings may be allowed to perform a less frequent review, up to three years, taking into account the nature, scale and complexity of the risks inherent in their business." The Dutch Association of Insurers and Insurance Ireland believe that this condition should be inverted, requiring that the review is performed at least once every 3 years, and more frequently if certain conditions (to be elaborated) are met. The current EIOPA text proposal leaves high uncertainty for insurers and all powers in the hands of the NCAs.
8	183	Re. para. 8.183, the Dutch Association of Insurers and Insurance Ireland would like to comment that, while we agree that assessing board effectiveness is generally appropriate, we do not believe this should be included in the Solvency II framework. This requirement already follows from general corporate governance/corporate law requirements and compliance is governed through regular corporate law provisions. Inclusion in the Solvency II framework would be an unnecessarily duplication of requirements and could easily lead to a formalistic approach to the review of board effectiveness and the review of the system of governance in general. Board effectiveness and the effectiveness of the system of governance are monitored on an ongoing basis within the organisation of any insurer, by the corporate bodies, the key functions, and to some extent the external auditor. Moreover, the ORSA process already implies an assessment of the governance system, board effectiveness as well as the regular reporting and disclosure cycle and it also implies that these elements are being assessed. It is not clear to us what value this additional requirement would add.
8	186	Re. para. 8.186, the Dutch Association of Insurers notes that, through Insurance Europe, it contributed to the EIOPA consultation on reporting and disclosure requirements launched in June 2019. Overall, we believe that the EIOPA proposals made in this consultation fail to fulfil the aim of a material reduction of the regulatory burden.

		From the current state-of-play, these proposals constitute a significant increase in the reporting burden as such. Insurers would be required to make considerable additional efforts for their implementation (including fundamental system adjustments) and application. In light of this assessment, a proportionate application of these additionally burdensome requirements is even more important. In this regard, we are disappointed that EIOPA decided to recommend maintaining the empowerments for NCAs in Art. 35 (6) and (8) Solvency II. In contrast to relying on national measures, we consider an ambitious and stronger approach towards the definition of risk-based thresholds important. As step in the right direction is for example the definition of core and non-core QRTs. This approach is welcomed. In line with our position on the application of proportionality measures, we suggest inverting the application requirement. Instead of allowing a very limited number of companies to be exempted, we consider it more appropriate that NCAs may have the option to request this information from insurers if duly justified on an individual basis. Therefore, the Dutch Association of Insurers and Insurance Ireland propose to invert the burden of proof in article 35(6-8) of S II. What we mean is a default exemption from quarterly and semi-annual QRTs, unless the insurer has (a) low quality QRTs in the past and (b) a low or unstable solvency position. Article 35(6-8), Solvency II allows this exemption only on condition that the insurer has (a) good quality QRTs in the past and (b) a large and stable solvency position. The consequence is that the NCA has to act (and not the insurer) if it wants to receive these QRTs. Re. para. 8.186, the Dutch Association of Insurers and Insurance Ireland would like to comment that, in the proportionality toolbox, we propose that deadlines for reporting annual data on a solo basis should be 20 weeks (annually) instead of the current 16 weeks (annually) and 6 weeks for quarterly. Group reporting deadlines should be 12 weeks (quarterly) and 22 weeks (annually). We propose this because that would reduce the time pressure and therefore reduce the bill these SME insurers get from external advisers such as external actuarial consultants and external auditors. Furthermore, we propose that the SFCR part that is meant for the policyholder should be consumer tested. We are not sure that the items EIOPA proposes to include in the policyholder SFCR can be easily understood and evaluated by policyholders / consumers. Also, we propose an exemption to EIOPAs proposed “professional” section of the SFCR for insurers who do not have financing from capital markets. That part of the SFCR is mainly of importance for professional and institutional investors and investment analysts. In case an insurer’s bank(s) or reinsurer(s) need this type of information, the insurer could generate the desired information in the context of that bilateral relationship. In case the insurer has no shares outstanding nor any bonds to finance itself, it has no dealings with capital markets and therefore the “professional” part of the SFCR is not needed. Accordingly, we agree with EIOPA that the consumer section of the SFCR is only relevant where insurers have policyholders who are unaffiliated with the insurer itself, i.e. not captives.
9	24	The Dutch Association of Insurers does not understand why the issue mentioned in para. 9.24 is a policy issue if these entities are not considered to be a group pursuant to article 212? All the solo provisions will apply to them. The NCA can include all "group-related elements" in the supervisory dialogue. - Partly or have fully the same shareholders: All components of the own funds have to meet the criteria as mentioned in the Directive 2009/138/EC and Regulation 2015/EC. Whether the shareholders are the same will not have an impact on the Solvency position of the insurer only if ancillary capital is recognised where the counterparty is that same shareholder. However, this also has to be assessed. - Have AMSB/management body members in common: The real relevant question is whether the AMSB/management body has enough time to act as AMSB and has sufficient independency. This is part of the fit and proper assessment. - Have financial links: If the links are too dominant, a RC will emerge which will have to be dealt with according to the current legislation. If there is no group for other purposes (such as accounting), we should not look to add groups if not necessary. In what sense are the policyholders interest at stake? The same applies to para. 9.46.
9	27	In para. 9.27, EIOPA notes a second policy issue, but does not provide a quantification. In how many instances was this an issue?
9	34	The Dutch Association of Insurers would like to know in how many of the groups, or possible groups, the issue mentioned in para. 9.34 is deemed to be an issue? A principles-based requirement will always be such than an individual supervisor can define the appropriate supervision. The current legislation provides sufficient opportunities for an effective supervision of the solo undertakings, grouping of undertakings, or groups.

9	35	Re. para. 9.35, the Dutch Association of Insurers observes that article 212 (1)(c)(ii) provides sufficient possibilities to include entities as part of a group.
9	36	The concept of "centralised coordination" mentioned in para. 9.36 and 9.48 does not need to be defined further. If the NCA is of the opinion that there is centralised coordination, he will provide his opinion including the reasoning. The alleged group will also have to provide an opinion on the centralised coordination. This will be input in the supervisory dialogue. Any more "rules-based" definition will always have sufficient cases where the definition is deemed to be ambiguous or the situation can be made in such a manner that either a group is formed or not.
9	37	Re. para. 9.37, The Dutch Association of Insurers advises EIOPA to assess the principles as laid down in the IFRS standards which respect to control or significant influence. An alignment would result in similar consolidation circles between accounting and Solvency II.
9	39	The Dutch Association of Insurers would like to know how big the issue mentioned by EIOPA in para. 9.39, is.
9	40	Re. para 9.40 and 9.49, the Dutch Association of Insurers does not feel it is justified to provide the supervisory authorities with the power to require a legal restructuring of the groups. In our opinion, the Solvency II legislation has sufficient possibilities to exercise effective (group) supervision. We suggest that EIOPA give reasons for its proposal.
9	42	In the opinion of the Dutch Association of Insurers, the option EIOPA proposes in para. 9.42 is not proportionate to the scale of the issue mentioned. The creation of an EU holding entity will require many resources.
9	45	If a look through is applied to subsidiaries, all assets /liabilities are in included in the consolidated data.
9	46	The Dutch Association of Insurers refers to its comments on paragraph 9.24.
9	47	Re. para. 9.47, the Dutch Association of Insurers advises EIOPA to assess the principles as laid down in the IFRS standards which respect to control or significant influence. An alignment would result in similar consolidation circles between accounting and Solvency II.
9	48	The Dutch Association of Insurers refers to its comments on para. 9.36.
9	49	The Dutch Association of Insurers refers to its comments on para. 9.40.
9	55	Re. para. 9.55, The Dutch Association of Insurers is not aware of any problems with the definition. The definition is used widely. Could EIOPA state in how many cases this is actually an issue?
9	62	Re. para. 9.62 and 9.67, the Dutch Association of Insurers would like to know how EIOPAs proposal will solve the issue of the MAIHC because only reference is made towards IHC?
9	66	Re. para. 9.66 and 9.69, it is unclear to the Dutch Association of Insurers why all these measures are needed when analysing the policy issue mentioned in para 9.60. We feel that the proposals are not proportionate to the nature and size of the issue described. Nor does EIOPA state the number of groups where this issue is recognised.
9	67	The Dutch Association of Insurers agrees.
9	68	Re.. para 9.68 and further: Some of the proposed measures are overly intrusive outside an insolvency/resolution context and could have a major impact on the capital structure of groups; Corporate law does not seem to be taken into account (AGM approves dividends, not the board, that only proposed dividends). Supervisory intervention in distributions to debt holders could have a major impact on funding structured and should be very clearly drafted in legal requirements, because this can lead to contractual events of defaults towards investors, trigger acceleration of debt obligations and cross-default provisions. What would the designation (if anything) of a temporary entity responsible for group requirements do with the calculation of group Solvency?
9	69	The Dutch Association of Insurers refers to its comments on para. 9.66.
9	72	Re. para. 9.72, the Dutch Association of Insurers would like to know in how many instances this issue was recognised? Is the exclusion at the discretion of the NCA? If that exclusion would result in no group supervision and if that is an issue, why would the NCA grant this exemption? Why should the legislation be changed to combat this? We believe issues between NCAs should not lead to changes in legislation but should be solved within EIOPA.
9	78	Re. para. 9.78, the Dutch Association of Insurers would like to know why this is an issue? What goes wrong in practice?

9	90	Re. para. 9.90, the Dutch Association of Insurers would like to know why EIOPA should be consulted? It is a possible issue within the competent authorities within the structure of the group and the Member States where the group is pursuing business.
9	101	Re. para. 9.101, the Dutch Association of Insurers would like to know whether EIOPA can explain in how many cases, the group supervisor was unable to retrieve the information as requested with respect to IGTs. In how many cases did the group deliberately excluded that IGT information considered by EIOPA as a "gap"?
9	104	Re. para. 9.104, the Dutch Association of Insurers observes that the decision to replace SII IGT with FICOD IGT, is a decision amongst competent supervisors often within the same supervisory authority. They should be able to deal with an issue arising. There is no need to change the legislation to solve an issue between supervisors. If appropriate, EIOPA could revise Chapter II of the guidelines on governance which deals with group governance aspects (IGT =guideline 69)
9	108	In the opinion of the Dutch Association of Insurers there is no need (as proposed by EIOPA in para. 9.108) to change the legislation in order to impose a supervisory convergence. The setting of thresholds should be based on the risk profile and specific circumstances of any group concerned. If needed, guidance could be added in the guidelines rather than by including legislation. This will never be able to deal with all possible group structures and characteristics. A QRT is only one tool in understanding the risk concentration. An insurer has a need for concentration risk management and will describe this where relevant in the RSR. The thresholds are set by the NCA based on their understanding of the risk properties within the Member State, the interconnectedness and other characteristics. An EU-wide threshold will also have many flaws as any threshold will be too high in one Member State and too low in another, whether relative or absolute. A too low threshold will generate too many entries and a threshold that is too high will generate too few. In our opinion it should be left to the NCA. Re. para. 9.108, the Dutch Association of Insurers would like to know whether EIOPA can give cases where setting the thresholds wrongly induced wrong supervision.
9	118	Re. para. 9.118, the Dutch Association of Insurers observes that having different thresholds for different entities will be very burdensome to integrate in IT-systems and processes.
9	125	Re. para. 9.125, the Dutch Association of Insurers is not in principle against adding additional criteria. However, the criteria should have a clear relationship with the risks induced by the possible risk concentration. In how many cases did the thresholds currently set lead to incorrect supervisory practices. Not from a theoretical point of view or potential, but actual and in practice?
9	161	The Dutch Association of Insurers disagrees with the statement in paragraph 9.161 (and 9.166) that any subordinated debt issued by intermediate insurance holdings/intermediate mixed financial holding companies should, by default, be assumed to be unavailable.
9	166	The Dutch Association of Insurers refers to its comment on para. 9.161.
9	168	The Dutch Association of Insurers refers to its comment on para. 9.161. We do not fully understand what is being proposed and it seems to be inconsistent with 9.170. For non-regulated entities undertaking financial activities the most appropriate/relevant requirements should be used, but in 9.170 a very specific treatment is prescribed (insurance requirements).
9	169	The Dutch Association of Insurers refers to its comment on para. 9.161.
9	203	The Dutch Association of Insurers does not fully understand the background of the proposal. What effectively is the difference between method 1 and method 2 (9.204 sub ii)? Under method 1, the outcome seems to be similar (see article 336 (c) of the Solvency II Delegated Regulation).
9	204	The Dutch Association of Insurers does not fully understand the background of the proposal. What effectively is the difference between method 1 and method 2 (9.204 sub ii)? Under method 1, the outcome seems to be similar (see article 336 (c) of the Solvency II Delegated Regulation).

9	261	Re. para. 9.261.ii, the Dutch Association of Insurers are of the opinion that the industry the construction of using D&A (no diversification) and prudent approaches (possible additional haircuts and factors > 1 on local sectoral SCR, such as in line with EIOPA's opinion of September 2015 on equivalence) are already factoring in a significant amount of prudence. Opening the door for additional SII risk views would introduce stacking of prudency. Also we strongly support Recital 125 of the SII Delegated Regulation, i.e. imposing SII views on top of (equivalent) local sectoral rules goes against the aim of ensuring level playing field in third countries. As such the industry does not support introduction of currency risk charges and market risk concentration charges as proposed in paragraphs 9.261 and 9.262 of the consultation on the draft opinion
9	296	Re. para. 9.296, the Dutch Association of Insurers observes that EIOPA seems to indicate a potential issue, but it is unclear whether this has really happened. Did the NCA's recognise this issue in practice?
9	311	The Dutch Association of Insurers agrees with the clarification of the purpose of recital 127 in the Delegated Regulation. We believe that the scope of this provision should be the winding-up of any EEA (re)insurance undertaking in the group. This scope should be the same, regardless of the structure of the group (a group headed by a holding company or by an insurance or reinsurance undertaking) to ensure a level playing field. Although not fully clear in the consultation document, we believe that this is achieved in option 3, which we would then favour, instead of option 2 as proposed by EIOPA.
9	325	The Dutch Association of Insurers believes that the example provided by EIOPA in para. 9.325 is very farfetched. In what sense does it address a real and current issue within a group? How many underlying entities have issued subordinated liabilities, and/or have a low diversified SCR in order for the restricted own funds to be eligible for group purposes?
9	336	Re. para. 9,336, the Dutch Association of Insurers is of the opinion that EPIFP are the result of a valuation based on economic principles. The best estimate is calculated based on an exit value notion. This suggest that the insurance contracts are transferred to a willing third party. The transfer includes all rights and liabilities of the relationship between policyholder and insurer. The third party will also assume the future premiums as part of the cash flows transferred. By a possible sale the EPIFP will be received.
9	337	The Dutch Association of Insurers is of the opinion that the issue mentioned by EIOPA in para. 9.337 does not only exist for the assumption of the EPIFP but also for all other elements when determining the best estimate of the insurance liabilities. The calculation of the Risk Margin is also based on the direct transfer to a reference undertaking.
9	357	The Dutch Association of Insurers agrees with the proposal made by EIOPA in para. 9.357.
9	358	Re. para. 9.358, the Dutch Association of Insurers believes EIOPA should also revisit the treatment of IGTs in this calculation especially if the IHC or MFHC are included based on their notional SCR which includes many capital requirements based on IGT positions and will lead to serious duplication of risks.
9	388	EIOPA says in para. 9.388 that Third country (re-)insurers is an important feature. The Dutch Association of Insurers observes, however, that the requirements on how to include a non-equivalent third country (re-)insurer in the group consolidation is not assessed. How should the Solvency II rules be applied to all balance sheet items of the third country (re-)insurer? Is it appropriate everywhere? Re. para 9.388, he Dutch Association of Insurers observes that the Solvency II legislation applies to any insurance company with a seat in the European Union or any insurance entity that wants to sell insurance products to consumers in the European Union. In addition, the Solvency II legislation also presents requirements how to deal with insurers in equivalent and non-equivalent Third countries within a Group. If equivalence is granted, the local rules may be applied and can be included in the Solvency position of the group. However, if a third country is deemed to be non-equivalent, the group has to apply the Solvency II legislation towards that non-equivalent third country. For some risk types, appropriate changes are included to accommodate the different non-EU situation. For example, within Natural catastrophe risk. Some risk types are calibrated at general market data, such as interest rate risk, spread risk, FX risk. However, for certain elements the inclusion of non-equivalent third country subsidiaries in the group can result in onerous and inappropriate treatment. Consider for example a non-equivalent third country with a Credit Quality Step below 3. An insurance entity in that Third country has a reinsurance contract within the same Third country. The local prudential legislation is applied and the insurer is deemed to be solvent, based on the local legislation, which is not deemed to be equivalent. On a solo level everything is fine, but once this entity is consolidated, problems appear.

<table>
<tr><td></td><td></td><td>Consider article 211 (2)(c), for an insurer localized in the European Union, one has to make sure that the risk mitigation is effective. According to this article this is not fully the case if the CQS is below 3. From this perspective this can be justified.
However, consider again the above example. If the non-equivalent third country insurer is aggregated as part of the group, the group has to apply all the Solvency II requirements to this subsidiary including article 211. Suddenly, the risk mitigation, which is locally deemed to be effective and working, is not effective anymore. This fact has an enormous impact on the economic balance sheet and the capital requirements.
The resulting impact is very negative, is not intuitive, generates incorrect management incentives and also has a very negative impact on the willingness of groups investing outside the European Union in non-equivalent third countries and/or countries which have a temporary equivalence.</td></tr>
<tr><td>9</td><td>390</td><td>When considering the underestimation in para. 9.390, the Dutch Association of Insurers believes EIOPA should also consider the impact of not having the corridor at group level. This results in many cases to a higher MCR/SCR ratio than 45%.</td></tr>
<tr><td>9</td><td>391</td><td>Re. para. 9.391 and 9.399, the Dutch Association of Insurers observes that, if the notional SCR is to be taken into consideration, the issue of including IGT in the calculation, rather than deleting this for group calculation purposes, will overestimate the calculation for groups significantly. The notional SCR determined for IHC or MFHC will include a lot of IGT especially with respect to the subsidiaries. The subsequent group SCR will encompass duplications. If not, the ladder of intervention will be smaller than necessary on the level of the group.</td></tr>
<tr><td>9</td><td>399</td><td>Re. para. 9.330, the Dutch Association of Insurers observes that the inclusion of a notional MCR for MFHC or IHC without adjusting for intragroup transactions, will result in onerous outcomes and could even result in the group MCR to be above the group SCR.
The notional SCR / MCR of a MFHC or IHC is calculated based on the “company economic balance sheet”. In this balance sheet the intragroup transactions are not eliminated. Subsidiaries are included based on their adjusted net equity value.
Consider the following group: An IHC has as only as assets participations in the insurers A and B. Assume the following Solvency information:
<table>
<tr><td></td><td>Own Funds</td><td>SCR</td><td>MCR</td><td>Ratio</td><td>MCR/SCR</td></tr>
<tr><td>Insurer A</td><td>150</td><td>100</td><td>35</td><td>150%</td><td>35%</td></tr>
<tr><td>Insurer B</td><td>250</td><td>200</td><td>90</td><td>125%</td><td>45%</td></tr>
<tr><td>Group</td><td>400</td><td>250</td><td>125</td><td>160%</td><td>50%</td></tr>
</table>
The IHC has a total of own funds of 400. The group MCR is based on the sum of the solo MCR. As there is no corridor at the group, the ratio MCR/SCR increases as the diversification benefits is only allowed at SCR level and not MCR.
Consider the impact of the introduction of the notional MCR on the level of the IHC. EIOPA proposed as proxy 35% of the notional SCR.
The notional SCR is based on the company balance sheet of the IHC. In this example, the IHC has only participations as assets. The capital requirement is then based on the equity risk module. As the participations are not listed, the capital requirement is based on the 49% drop in equity prices. IN this example that would result in a notional SCR of 196. The resulting notional MCR is 68.6. The total group MCR has become 193.6. The ratio MCR/SCR is now 77.4%. The ladder of intervention is now very small. The increase of the group MCR based on the notional MCR is solely the result of a double counting because intragroup transactions between the IHC and the remainder of the group where a MCR is calculated is not eliminated. If the Own funds of the solo undertakings would be higher, there could be a situation in which the group MCR becomes higher than the group SCR.
EIOPA should eliminate the intragroup transactions from the calculations as is normally done for the calculations of the group SCR.</td></tr>
<tr><td>9</td><td>441</td><td>Re. para. 9.441, the Dutch Association of Insurers is of the opinion that there is no need to change the legislation. In our opinion it is clear that the article applies, regardless of which method is used. Is the issue mentioned seen in practice by EIOPA?</td></tr>
</table>

9	442	The Dutch Association of Insurers agree with EIOPAs proposal in para. 9.442. However, it is unclear whether the elements mentioned by EIOPA are restricted to the subordinated liabilities. If more elements are considered, there should be a consideration of the differences in the balance sheet according to sectoral rules and the economic perspective of Solvency II.
9	443	Re. para. 9.443: the Dutch Association of Insurers believes that by default, own funds of OFS should be assumed available, either to cover the contribution of that entity to the group SCR or as available excess own funds.
9	444	Re. para. 9.444 the Dutch Association of Insurers refers to its comments on para. 9.443.
9	445	The Dutch Association of Insurers agrees with EIOPAs proposal in para. 9.445.
9	446	The Dutch Association of Insurers understand re. para. 9.446 that the Q&A should apply to those entities under current prudential legislation. To the extent that legal entities are not subject to capital requirements on a stand-alone basis but should be included in the group solvency requirements using relevant sectoral requirements (such as might be the case with some financial institutions and investment firms, we believe a simpler capital requirement should be applied (without the need to calculate e.g. ICAAP capital, additional buffers, etc. We do not fully understand the distinction made between method 1 and 2, because it appears that these types of entities are aggregated/consolidated in more or less a similar way in the group solvency calculation in both method 1 and 2.”
9	500	Re. para. 9.500, the Dutch Association of Insurers refers to the Insurance Europe reply.
9	501	Re. para. 9.501, the Dutch Association of Insurers believes it is not necessary to define the system as mentioned by EIOPA. If there are any issues in practice, the group supervisor should deal with the issue within the supervisory dialogue. Any solution can be tailor-made to the unique characteristics of the group and the risk profile of the group. Currently, we are not aware of any issues with the current legislation. Re. para. 9.501, the Dutch Association of Insurers disagrees with the proposal to apply article 40 equally at group level. The concept *mutatis mutandis* provides the necessary discretion to translate the requirements stemming from article 40 in an appropriate manner to the group level. The group context is inherently different from the solo context so there is a need to allow adaptations to that context. In particular this is true for more detailed requirements included in the Solvency II Delegated Regulation and EIOPA guidelines based on article 40, that are tailored to the insurance entity, not to a group.
11	3	Re. para. 11.3, the Dutch Association of Insurers notes that EIOPA's papers on macroprudential policy do not provide any evidence that traditional insurance activities contribute in any way to systemic risk. Therefore, insurers that only provide traditional insurance should be exempted from macroprudential policy changes.
11	6	Re. para. 11.6, the Dutch Association of Insurers observes that the topic is not relevant for traditional insurance activities.
11	7	Re. para. 11.7, the Dutch Association of Insurers comments that the fact that topics around systemic risk and macroprudential policy in insurance are less developed in comparison with the banking sector is not a deficiency, but the logical consequence of traditional insurers being the opposite of systemically risky.
11	13	Re. para. 11.13, the Dutch Association of Insurers comments that traditional insurance has never caused systemic risks, and it is therefore unjust to impose additional macroprudential measures to traditional insurers. The examples given in box 11.2 concern banking activities of groups that also had insurance activities.
11	15	Re. para. 11.15, the Dutch Association of Insurers comments that EIOPA should include a third way beside the direct and indirect effect: regulatory effects (by (A) propagating procyclical behaviour, (B) onerous requirements accelerate market consolidation thereby creating systemically relevant entities, (C) EIOPA proposing moving hedging activities to derivatives (instead of bonds). See the section on the RFR.
11	18	Re. para. 11.18, the Dutch Association of Insurers comments that BOX 11.3 states that certain consensus on the need to have macroprudential frameworks should be in place also for the insurance sector. We do not agree. The insurance sector believes that traditional insurance activities were never involved in systemic risks and a policy to address this issue would be unnecessary.

11	26	Re. para. 11.26, the Dutch Association of Insurers observes that Solvency II is a market value, risk based framework that by itself can cause or amplify systemic risks by: • emphasising spread risk over default risk in the market risk module (despite the ALM hedging that is commonly in place); • propagating procyclical behaviour by focussing on the one-year horizon (de-risking is a valid recovery measure while jeopardising insurer's viability); • accelerating market consolidation thereby creating systemically relevant entities (probably caused by too burdensome legislation and requirements); and, • EIOPA proposes to move hedging activities to derivatives (instead of bonds) to enable an LLP of 30 years or 50 years, thereby increasing Solvency volatility and worsening the connectedness. See section about RFR.
11	28	Re. para. 11.28, the Dutch Association of Insurers comments that EIOPA should provide evidence supporting its opinion that additional tools are strongly needed, despite the absent role of traditional insurance activities in past systemic risk events.
11	32	Re. para. 11.32, the Dutch Association of Insurers observes that NCA's already have powers under article 28 of the Directive. Because traditional insurance activities do not pose any systemic risk, we disagree with these EIOPA proposals.
11	34	Re. para. 11.32, the Dutch Association of Insurers observes that the policy options EIOPA proposes to grant new powers to NCA's. We do not believe a convincing case has been made for this proposal.
11	36	Reading para. 11.36, the Dutch Association of Insurers notes that EIOPA apparently believes that SII is a principle-based framework. The Dutch Association of Insurers begs to differ: at the outset, S II may well have been intended to be principle-based, but it has ended up very much rule-based, as is evidenced mainly by the texts of the delegated acts. We point for example to the mathematical formulas.
11	38	Re. para. 11.38, the Dutch Association of Insurers wonders whether Voluntary reciprocity will be successful in insurance. Local insurance markets vary very much, which by itself mitigates the macroprudential need for measures. Granting powers to NCAs would jeopardise the level playing field.
11	39	Re. para. 11.39, the Dutch Association of Insurers believes a capital surcharge would be detrimental to financial stability, because this surcharge would lead to increasing costs which would ultimately be borne by the policyholders. SII capital requirements are already considerably higher than SI requirements and the high SII volatility of Own funds make excessive buffers logical. In the Netherlands the Dutch NCA *de facto* (i.e. it cannot be found in legislation) imposes minimum solvency levels of 140% even after a predefined stress, so in practice solvency should exceed 150 – 170%. EIOPA acts as if the SCR is a target and MCR is a minimum. When Solvency II was drafted, the MCR was meant to be the minimum, and the SCR was intended to be the target. Increasingly now, NCAs are looking at internal SCR targets of insurers and behave as if that is the target. Adding supervisory powers to increase the solvency even further would therefore not be reasonable or necessary.
11	40	Re. para. 11.40, the Dutch Association of Insurers believes only the possibility of a surcharge alone will cause additional buffers and aiming for higher solvency ratios because from a risk management perspective the surcharge is a threat to be dealt with. Accumulating even more "dead" capital for possible future eventualities is bad for the economy, bad for risk management, bad for returns on investment (and insurers' funding). It should be strongly opposed as an effective measure for macro prudential purposes.
11	41	Re. para. 11.41, the Dutch Association of Insurers notes that the SII framework is already risk based. So, if insurers are taking on more risks, their capital requirements will go up. Therefore, there is no need for a capital surcharge. Traditional insurers pose no systemic risks whatsoever. Banks do, if an insurer does exploit a banking licence too then surcharges based on the CRR are already possible for this banking entity.
11	43	Re. para. 11.43, the Dutch Association of Insurers notes that if for example mortgages would become at risk for a surcharge (as they already are in the Netherlands for banks) then insurers could decide not to invest in these assets because sound risk management practice would involve predictability of the risk/return ratio. Unpredictability is bad for business.
11	70	Re. para. 11.70, the Dutch Association of Insurers notes that EIOPA admits that granting these powers to NCAs is dangerous but refers to the banking sector for successful examples. However, insurance is far more diverse than banking because of varying national legislation and circumstances. We also note that

		imposing sector wide thresholds and limits can trigger procyclical behaviour. If EIOPA would decide to implement such measures, thresholds should only be set at process-level (new investments). The investments that are already on the balance sheet should be out of scope of these thresholds.
11	92	Re. para. 11.92, the Dutch Association of Insurers notes that the ORSA should cover all known relevant risks. So a supervisory letter asking for attention for a macroprudential issue is already possible and in fact, common practice. In this regard both options are similar.
11	96	Re. para. 11.96, the Dutch Association of Insurers believes that no changes are necessary. The ORSA already includes all relevant risks (such as emerging risks like climate change/crisis, sustainability risks, macro prudential risks, etc.).
11	106	Re. para. 11.106, the Dutch Association of Insurers comments that an economic downturn is not a source of systemic risk. The market risk calibration already considers downturns. These risks are well covered in the SII framework already.
11	113	Re. para. 11.113, the Dutch Association of Insurers comments that firstly, a definition of systemic risk is missing, so planning for such event is impossible. Secondly, planning for a crisis from a micro-prudential perspective will be done in a recovery preparation plan. This preparation's purpose is to be better prepared for a crisis (systemic or not). It should be noted that a SRMP could be regarded as a specific plan countering a systemic crisis while a recovery preparation plan's purpose is micro prudential. EIOPA is not clear if these two plans are similar or different.
11	125	Re. para. 11.125, the Dutch Association of Insurers would like to know what evidence or indications or plausible narrative exists for EIOPAs statement "Although much less pronounced than in banking, a market-wide liquidity problem cannot be ruled out." Of course, noting can be ruled out, including an extinction level meteorite event, but without a credible estimate of probability and impact, it is not a sound reason for policy changes. (Life) Insurers have invested heavily in government bonds and are receiving premiums which they are using for claims. An individual insurer could become illiquid in excep-tional circumstances but a systemwide liquidity problem is too remote to justify macroprudential policy changes.
12	20	Re. para. 12.20 reference is made to the 2017 EIOPA Opinion, that 'shows that most of the existing national frameworks do not contain these [the FSB Key Attributes'] core elements. We are not sure if this opinion covers all arrangements that are available in Member States to ensure the orderly resolution of insurance portfolios. For instance, some IGSs cover ways to run-off portfolios, which is covered in other Member States in a specific resolution regime.
12	25	Re. para. 12.25 the figure presenting the crisis management flow should be amended to reflect that early intervention does not currently exist and neither should it be mandated. Rather, the second bubble on the top row should reference "Early warning indicators" whereas the second rectangle on the bottom row should refer to "increased monitoring and dialogue". There should be no early intervention points for supervisors as long as the SCR has not been breached. We believe the mechanism of article 136/136 of the Solvency II Directive (notification of the supervisor in deteriorating financial conditions and submission of a recovery plan within 6 months of the breach of the SCR) should be sufficient. While we do believe that insurers should be able to go bankrupt and be liquidated in normal insolvency proceedings, resolution will provide a valuable alternative to ordinary bankruptcy proceedings, because it avoids the destruction of value of assets that is likely to occur in ordinary bankruptcy proceedings.
12	54	Re. para 12.54, pre-emptive recovery plans are developed at the group level or at the level of an individual insurance entity, which is not part of a group. We suggest to delete 'which is not part of a group'. Although many groups will develop such plans at group level, there might be circumstances in which groups as well prefer to develop such plans only at individual insurance entity level. EIOPA allows for recovery and resolution planning at entity level whereas this is much more relevant at group level, especially because pre-emptive measures often imply transfers within the group. As EIOPA proposes a minimum harmonised framework, many differences will exist between the EU jurisdictions' requirements. But we do not believe the process should be led by the group supervisor in cooperation with the supervisors members of the supervisory colleges to avoid disparate R&R processes within a group. This is because both a single-point of entry approach and a multiple-point of entry approach should be possible (or a combination). We do not believe that in all circumstances it needs to be the group supervisor (or resolution authority) that should be in charge. Paragraph 12.54 seems to limit recovery planning at solo entity level only when that entity does not belong to the group, which is too restrictive.

12	77	Re. para. 12.77, we do not believe that pre-emptive recovery planning should only be considered for insurers where it would provide a tangible benefit, as determined by the relevant supervisory authority. If this is to be decided by the supervisory authority, this will lead to different outcomes across Member States and therefore an unlevel playing field.
12	92	Re. Para 12.92, EIOPA says: "The power under (e) temporarily freezes the rights of policyholders to surrender. It should therefore only be applied after a careful consideration by NSAs and in exceptional circumstances." EIOPA proposes this power without having analysed under which circumstances it would do good and under which circumstances it would not do good, cause unnecessary problems for policyholders. We advise against granting the NCAs a power without such thorough analysis. Furthermore, it is an overly intrusive tool. It contradicts the argument that insurers are not subject to the risk of a run. The practical use of the tool seems very limited anyway, because at the proposed level (between MCR and SCR) this tool might lead to a breach of the No Creditor Worse Off-principle (despite the fact that the entitlements are not written-off, only suspended). The application of this tool could cause financial hardship for customers in a phase where the company is still running in going concern. Please note that in the Netherlands, it is possible to change policy terms collectively in some circumstances, if contractually agreed.
12	98/99	Re. para. 12.98 and 12.99, the EIOPA consultation document does not contain an analysis of the shortcoming of the current tools available in the Solvency II framework. Without such an analysis, we challenge the need to introduce additional tools, with the exception of a proportionate requirement to draft ex ante recovery plans.
12	100	Re. para 12.100, the Dutch Association of Insurers has significant concerns with the introduction of the power to suspend and/or limit surrender rights of policyholders on a temporary basis during recovery on the basis of financial stability (i.e. for macro-prudential reasons) and/or policyholder protection. In general terms we believe that this tool constitutes an infringement of property rights of policyholders and could only be applied when the conditions the European Court of Justice has formulated, under which such breaches are justified, are met. The only potential circum-stance in which we believe such a tool could be useful is when there is a real and imminent risk of an insurance run. Generally this is not the case, e.g. due to prohibitive costs and charges, related to early surrender. Moreover, we believe a credible resolution framework (e.g. orderly run-off of insurance portfolio) should neutralise the risk of an insurance run, because policyholders will continue to have a high degree of certainty that they will not be worse off and hopefully better of through resolution than by surrendering their policies during the recovery phase. However, if such a tool would be introduced, we believe the conditions under which it can be applied (i.e. a real and imminent risk of an insurance run) should be clearly and precisely described.
12	104	Re. para. 12.104, we do see the benefit of separating supervision and resolution because these are distinct and sometimes conflicting tasks. Similar to the BRRD, it should be allowed to create a separate resolution department (operational separation) without having to create a separate authority. We believe that, due to the distinct purposes of supervision versus resolution, at a minimum operational separation between the supervisory authority and the resolution authority is necessary. From a practical point of view we think it should be able to combine these functions in the same authority, in particular because the introduction new authorities might make the system overly complex, given the fact that insurance failures remain rare. A key point of attention is the oversight/supervision of the resolution activities. A run-off of an insurance portfolio might take considerable time (years/decades). During this period, the portfolio is essentially run as an ordinary insurance company (despite it being closed for new business) which does require a level of independent supervision over the resolution tasks, undertaken by or on behalf of the resolution authority.
12	109	We agree with the mentioned resolution objectives. At the same time, we believe that the decision to apply resolution tools (as an alternative to ordinary bankruptcy proceedings) should always be a combination of the first condition (protection of policyholder/beneficiaries) and one of the other objectives, which is also the case in the Dutch Act on Recovery & Resolution.
12	115	Re. para. 12.115: The introduction of harmonised rules for resolution planning at the EU level would mean that the requirement applies in all Member States. Resolution plans should be developed for insurance groups and individual insurance

		entities that are not part of a group. The development of group resolution plans, however, should not prohibit the possibility to develop resolution plans for solo-entities belonging to a group. Suggest to rephrase "should be developed for insurance groups and/or individual insurance entities." A resolution plan at group level might not be needed for in all circumstances. For some groups it might be sufficient to have a plan to resolve only an individual insurance entity in the group. Such as plan could potentially be developed at that entity level, rather than at group level. For instance a group, headed by a mixed activity insurance holding (i.e. a mixed insurance group) might not need such a plan at group level. Similarly, a banking group might have a group recovery plan pursuant to banking requirements and may only need a solo entity plan for the insurance entity in the group.
12	137	We believe the tool to require - ex ante- removal of material impediments to resolution should be subject to high threshold and thorough substantiation, taking into account that this is a tool that is potentially intrusive to the going concern and the generally remote likelihood of an insurance failure.
12	154	Re. para. 12.154 and para. 12.155, the EIOPA consultation document does not contain an analysis of the shortcoming of the current tools available. Without such an analysis, we challenge the need to introduce additional tools, with the exception of a proportionate requirement to draft ex ante resolution plans. We believe the tool to require - ex ante - removal of material impediments to resolution should be subject to high threshold and thorough substantiation, taking into account that this is a tool that is potentially intrusive to the going concern and the generally remote likelihood of an insurance failure. We believe that the ability to resolve a group and/or include group entities in resolution should be clearly defined. It should be very clear why – as an exception – a group needs to be resolved and or other group entities need to be included in resolution. The added value of this is not always apparent to protect the rights of policyholders in an operating entity (e.g. the application of bail-in at holding level).
12	166	We believe that one of the key merits of minimum harmonization of recovery & resolution frameworks is to better facilitate cross-border cooperation and information exchange. We could also see a role for EIOPA in this context, but the merits of this depend highly on the exact details. The current description in the EIOPA consultation is too vague to properly comment. In any case, we do not think EIOPA is structurally set up to take on the role of resolution authority, should that be considered.
12	182	We feel that the concept of 'judgment-based' is contradictory to 'no new pre-defined intervention level'. We believe that intervention triggers in bot recovery & resolution should be clear and predictable. Discretion creates uncertainty to stakeholders (including policy-holders and investors). No new intervention levels should be introduced (either pre-defined or otherwise). Supervisory intervention should take into account measures defined by insurers themselves (and which are subject to regular supervision) in their capital management plans. Valuation principles applicable to and in resolution should be taken into account and are linked to the resolution trigger, as the resolution trigger determines potential breaches of the NCWO-principle and entitlements of policyholders.
12	208	Re. para. 208, the first trigger, it should be clear that this is the situation of article 144(1) last paragraph of the Solvency II Directive (an irreparable breach of the MCR or an non-credible short term financing plan). This criterion should be equal to the ordinary insolvency criterion.