VERBOND VAN VERZEKERAARS

Comments draft Delegated Regulation

The Dutch Association of Insurers supports all comments by Insurance Europe. Some of our comments here are likely to overlap with those of Insurance Europe.
In these comments we refer to the CMU (Capital Markets Union) project, which has been renamed to SIU (Savings and Investment Union). Where CMU is mentioned, it should also be read as SIU.

Currency-related percentages for the determination of the first smoothing point (article 43a)

- The current text with respect to the FSP does result in too much uncertainties and should be amended. This could be achieved by amending the text such that the margin in the residual volume criterion is increased from 1%-point to e.g. 2%-point, by specifying that the residual volume criterium would only trigger a review of the FSP by EIOPA instead of an immediate change and/or capping the FSP for the euro at 20 years.
- Arguments to this are: stability in times of volatile market circumstances, clarity for hedging purposes, and prevention of disturbances in the IRS market for long maturities (as a moving FSP may lead to more demand from insurers at longer maturities affecting the balance between supply and demand in those markets)

Last liquid forward rate (LLFR) (art. 44, 46(1c))

1) The draft Delegated Acts regarding the determination of the LLFR (art. 46 1c) is hard to decipher. We recommend using formulas as a replacement, without changing the content, for example:
   The last liquid forward rate LLFR is defined as

$$LLFR = w_{FSP}.fwd_{j,FSP} + \sum_i w_i.fwd_{FSP,i}$$

   where i represents the set of tenors post FSP that are available in deep, liquid and transparent financial markets and where j is the last tenor in the construction of the curve prior of the FSP that is available in deep, liquid and transparent financial markets.

   The weights are defined as
   $w_k = \frac{V_k}{\sum_l V_l}$ for all k in {FSP and post FSP DLT tenors}, *l* uses all elements in that set. V_k stands for the daily traded notional amount for maturity k.

Currency-related percentages for the determination of the first smoothing point (article 43a)

- EIOPA is currently reconsidering the source data to calculate the residual volume criterion. Although the first smoothing point at the moment of implementation of the Solvency II 2020 review has been set at 20 years, the definition is relevant in order to prevent a situation where it jumps shortly after introduction to a different maturity (e.g. 25 years). It is positive to see that the EC makes it explicit that prior the formalisation of the Delegated Acts the residual volume criterion will be set dependent on the exact data source that will be used (since EIOPA seems to consider alternative data sources which do not necessarily lead to the same outcomes). The specification of the residual volume criterion has been made explicit via a formula with margin until the nearest half-integer +1%. We believe that it is better to build in more room to maneuver to ensure that the first smooting point remains at 20 years, even after the implementation of directive 2025/2.
- This could be achieved by amending the text such that the margin in the residual volume criterion is increased from 1%-point to e.g. 2%-point, by specifying that the residual volume criterium would only trigger a review of the FSP by EIOPA instead of an immediate change and/or capping the FSP for the euro at 20 years.
- There are multiple important considerations for fixing the FSP: this would lead to stability in times of volatile market circumstances, provide clarity for hedging purposes, and prevent disturbances in the IRS market for long maturities (as a moving FSP may lead to more demand from insurers at longer maturities affecting the balance between supply and demand in those markets).

Current adjustment/ambiguity in VA will work against the objectives of the CMU (art. 1, point 19 (art 51a and 51b))

- In the current texts on the VA, emphasis is laid on the VA per currency and country. In the articles, it is unclear how to treat investments denominated in a currency other than the currency of the currency zone. From current interpretations by supervisors, these type of investments are not allowed to be part of the VA (including the CSSR) calculations (even when the currency risk is hedged).
- If this is the correct interpretation, this would seriously jeopardise the objectives of the CMU. Insurers in the one currency zone would be very hesitant to invest in bonds and loans of another currency zone because the risk return equation would be negative compared to similar investments in the same currency zone as they may not include the investment in their VA calculations. For insurers using an internal model for market risk, this negative view is even amplified.
- Considering, the construction of the VA legislation in 2012, the reference portfolio was always deemed to represent the average investment portfolio of all (re-)insurers localised in that currency zone. To that end, EIOPA used the QRT 06.02 (list of assets) to construct that reference portfolio per currency zone and country.
- In our opinion, the EC should clarify that these investments denominated in another currency are an integral part of the reference portfolio and should be included in the calculations of the VA (including the CSSR) (when the currency risk is hedged).

Current text on the risk correction could render the VA more procyclical and less effective in times when the VA is really needed.
- The text regarding the risk correction seems to indicate that the level of the risk correction is to be calculated at the aggregated level of the category government bonds and/or bonds, loans and securitisations and not as done in the impact assessment of EIOPA on the more granular levels and per credit quality step.
- In the advice of EIOPA the following had been proposed:
  - o “S denotes the average spread of government bonds in the respective subclass of government bonds in the representative portfolio for currency c
  - o $LTAS$ denotes the long-term average spread of government bonds in the respective subclass of government bonds in the representative portfolio for currency c“
  - o In the Better regulation version, the following text has been introduced
  - o “S+ denotes the maximum of zero and the average spread of government bonds issued by Member States of the European Economic Area in the representative portfolio
  - o $LTAS$+ denotes the maximum of 0 and the long-term average spread of government bonds issued by Member States of the European Economic Area in the representative portfolio “
- In the better regulation text version, the reference to respective sub-classes is removed. This is also the case for the bonds, other than government bonds issue by Member States, loans and securitisation.
- This removal would indicate that all fixed income instruments are treated in the same manner, irrespective of the credit quality. This would have negative consequences on the ALM of insurers.
- In our opinion, the EC should introduce the “sub class” as advised by EIOPA in the formula.

Omission of loans and securitisation in text Risk correction has an opposite effect to the efforts to revitalise the securitisation markets in Europe (article 1, point 17 (art. 50) and point 18 (art. 51(3))
- When describing the VA, the better regulation indicates “bonds other than government bonds, loans and securitisations included in the reference portfolio” (article 1, point 17 (art. 50). However, when describing the cap of the respective risk correction, the better regulation version of the text describes ‘the long-term average spread of bonds other than government bonds issued by Member States of the European Economic Area in the representative portfolio’ (art. 1, point 18 (art. 51(3)). In this sentence, loans and securitisation are not included anymore.
- It is unclear whether this is a deliberate action. If so, this would result in a negative impact on the risk return of these investment categories which would be against the objectives of the EC to revitalise the securitisation markets in Europe.
- In our opinion, the EC should add “loans and securitisation” to the sentence.

Simplified calculation for immaterial risk module or sub-module (Article 1, point 26 (article 89a)

We applaud the inclusion of the article enabling a simplified approach towards immaterial risk modules or sub-modules. However, the wording of the article could introduce a same situation as with the article 88 approach in the past i.e. a possibility to use simplifications by the insurers but the introduction of a tremendous administrative burden preventing the insurers to really apply the possibility to use the simplifications. The practical application and trying to pass the hurdle ‘to the satisfaction of the supervisory authority’ could be too difficult similar to the article 88 situation in the past even after the submission by EIOPA of a statement how the article should be applied by the supervisors.

Article 1, point 29
The EC does not mention which article in the Regulation 2015/35 is amended. In our opinion, it should be article 117.

Article 1, point 30 (article 120)
In our opinion, the introduction of new definitions should be an amendment to article 1 of Regulation 2015/35 as all relevant definitions are described here. This would be more consistent. The definitions introduced here are not used anywhere else in the text of the regulation in another manner.

Article 1, point 31 amending formula for flood factors in the SF (article 123(7))
The EC have changed the value from 1.5 to 10. However, this is not similar to EIOPAs advice. EIOPA only wanted to change the t into i “Correct the formula for motor hail and motor flood (modify the subscript “t” to “i”)”.

Article 1, point 39 (c) (art. 148)
The EC refers to Non-life while this article refers to NSLT underwriting Risk. The wording should be adjusted to reflect the actual sub risk module concerned.

Article 1, point 61 a (art. 189)
The EC states point g is to be included, but it forgets that point (h) is also included. The amendment needs to be changed as follows: “(a) in paragraph 2, the following point (g) **and (h) are** ~~is~~ added:”

Article 1 point 62 (Article 191(b)
To the best of our knowledge, the exposure complies with Article 124(2), point(a)(ii), and Article 124(3) of Regulation (EU) No 575/2013. CRR Article 124(3)(c) and (e) refer to the complex concept of ‘property value’. The DR does not need this reference given DR article 191(6). Replace text with: “The exposure complies with Article 124(2), point(a)(ii), and Article 124(3), point(a), (b) and (d) of Regulation (EU) No 575/2013.”

Article 1, point 63 (art 192(4c), 5th para)
Where the guarantee is provided by a counterparty which is fully guaranteed by one of the counterparties referred to in Article 180(2), first subparagraph, points (a) to (d).
There are cases where the guarantee is provided by two parties, each for 50%. Please replace text with: “Where the guarantee is provided by a counterparty which is fully guaranteed by one or more of the counterparties referred to in Article 180(2), first subparagraph, points (a) to (d)”

Article 1, point 72 (article 212)
The EC introduces new requirements to be met with respect to risk mitigation techniques. The EC does not differentiate according to the risk mitigation techniques applied. The general requirement will **increase the administrative burden** even for risk mitigation techniques which are commonly used such as interest rate swaps. In our opinion, the requirement should explicitly be evidenced for non-plain-vanilla risk mitigation techniques reducing the introduced administrative burden.

Article 1, point 75 Sovereign and other public sector counter-guarantees
The EC introduces the possibility to recognise counter guarantees by sovereigns and other public entities. However, part of the requirements is that ‘all credit risk elements’ are to be covered. This results that partial guarantees cannot be taken into consideration.
In our opinion, this is a too strict requirement and could render many counterguarantees not able to be recognised. The impact of the guarantee in the risk-mitigation effect i.e. the effectiveness

of the guarantee should reflect the actual scope of the guarantee. This should not be in the requirement as stated in this new paragraph.

Article 1, point 77 (art 231) Overreliance on data from past events with respect to climate change-related risks
There is no clear definition of what 'overreliance on data from past events' means and where reliance ends and overreliance begins. Making the explicit requirement to create procedures to avoid overreliance on data from past events is equal to elevating only a portion of checks around data and modelling quality that is uncharacteristically selective. Reliance on data from past events is a relevant topic in modelling other long-term in nature, non-linear and systemic risks, e.g. longevity, inflation, and interest rates. We are puzzled why requirements regarding climate-related risks are singled out in a way that suggests that current Solvency II practices that (re)insurance companies have to adhere to are not sufficient.
Instead of addition of the text surrounding the 'overreliance on data from past events', we propose instead to not include it in the text of the official regulation but to make it a part of the regular review between (re)insurance companies and their regulators when best estimate assumptions or internal models are concerned (among other data and modelling choices that are usually discussed).

Sustainability & climate risk (articles 292, 294, 296, 297a)

- We raise a fundamental concern with the progression of the consultation on the Delegated Acts without making clear the reference to detailed definitions or showing alignment with other reporting related directives (such as CSRD). This prevents us from fully assessing the scale and scope of the regulatory changes. We suggest for the removal of language on sustainability risk where the detailed definition or requirement is not available yet.

- We note the changes outlined in articles 292 3d, 294, 296, 297a around integration of sustainability risk specific disclosure requirements within SFCR. While we acknowledge the need for transparency and relevant risk disclosures, we emphasize that we provide detailed coverage on material risks in our ORSA and CSRD disclosures. Adding similar information in a potentially new format to SFCR will create significant additional internal administrative burden without providing more benefits to the target audiences.

- We noted an inconsistency in the Delegated Acts in scope across various articles: Perception that climate-related risks and sustainability risks are possibly used interchangeably. Without clarification, this creates uncertainty about the scope of required analysis and disclosures.

Professional part of SFCR (Article 1, point 87, article 297)

- The EC introduces mandatory sensitivity analysis to be disclosed in the SFCR. In the last section of paragraph 2, the EC states that in the wake of the spread changes, the Volatility Adjustment should not be calculated. In our opinion, this is an invalid assumption. The change in the spreads will result in a change in the VA and should be included in the sensitivity analysis. The CSSR and Risk corrected spread will change and should be included in the analysis. Otherwise, the outcome of the analysis will provide wrong information to the users of that information.

Article 1, point 96 (article 307)
The EC mention that this point replaces article 307. However, in the proposal also article 308 is replaced.

Proportionality

- The conditions for reduction of the frequency of the regular supervisory report (art. 327b, DR) for non- SNCUs is unduly restricting the scope of art. 29c, directive, as one of the conditions is as small as a SNCU (art. 327b(1)(c)), thus restricting automatic application of proportionality measures to SNCUs.

- Article 327c, 327d, 327e, 327f, 327g, allows proportionality measures only under a strict set of circumstances, thus reducing flexibility and **increasing regulatory and compliance burdens** for companies that do not comply with SNCU-conditions. Proportionality was a way for supervisory authorities to have a dialogue with their (re)insurers to avoid undue regulatory and compliance burdens.

Suggestion with re to article 327c (4):

4. Notwithstanding paragraph 1, first subparagraph, supervisory authorities may still shall approve the use of the proportionality measure provided for in Article 35(5a) of Directive 2009/138/EC to an insurance and reinsurance undertaking which does not meet the condition set out in paragraph 1, first subparagraph, point (c), of this Article, where they conclude, on the basis of the elements of the supervisory review process that are relevant for this proportionality measure, that the risk profile of the undertaking is sufficiently low. This is also in line with paragraph 1 of the same article: The supervisory authority shall approve the use of the proportionality measure provided for in Article 41(2a), second subparagraph of Directive 2009/138/EC to an insurance and reinsurance undertaking that is not classified as small and non[1]complex undertaking, where all of the following conditions are *met: (...)*

Article 1, point 106d (article 330(4a)

The EC introduces basically guideline 14 of EIOPAs guidelines for group solvency. In the drafting it is unclear if the EC refers to 'minority interest' or to 'minority interest exceeding the contribution of that subsidiary to the group solvency' as no ' ' are used.
In our opinion the latter should apply and should be drafted unambiguously.

Article 1, point 107(a) (art 333)

The EC replaced the title of article 331 but also changes the article number from 331 to 335. In our opinion that is an error and should be reversed.

Determination of consolidated data (article 1, point 110b (article 335 (1))

In the proposed text of article 335 (1), the current paragraph e has been removed, which would mean that the contributions of referenced undertakings (credit institutions, investment firms, financial institutions, AIFMs, UCITS management companies, IORPs, non-regulated undertakings carrying out financial activities) to the group solvency would need to be calculated in accordance with article 335 (1) , rather than in accordance with the provisions of the revised article 228 of the Solvency II Directive. Therefore, there appears to be an inconsistency between the Directive and the Delegated Regulation.

Calculation of the consolidated group SCR (article 1, point 111 (article 336)

In the proposed text of article 336, the current paragraph c has been removed, which would mean that the contributions of referenced undertakings (credit institutions, investment firms, financial institutions, AIFMs, UCITS management companies, IORPs, non-regulated undertakings carrying out financial activities) to the group SCR would need to be calculated in accordance with article 336 (c) (revised), rather than in accordance with the provisions of the revised article 228 of the Solvency II Directive. Therefore, there appears to be an inconsistency between the Directive and the Delegated Regulation.

Article 1, point 114 (article 343 (5))

The reference to article 239(4) Solvency II Directive seems to be incorrect.

r.batten@verzekeraars.nl

~~4 september 2025~~~~3 september 2025~~~~3 september 2025~~4 september 2025

4 september 2025