Position Paper

Response to EIOPA Discussion Paper on Systemic Risk and Macroprudential Policy in Insurance

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Introductory remarks

Insurance Europe welcomes the opportunity to provide comments on the EIOPA discussion paper on systemic risk and macroprudential policy in insurance.

In light of the limited need for additional macroprudential measures, Insurance Europe strongly believes that only the tools mentioned by the European Commission in its call for Advice (CfA) should be further considered in the context of the 2020 Solvency II review. Also taking into account the limited time allowed for comments on this Discussion Draft, Insurance Europe will not comment at this stage on any additional tools than those in the CfA. It has however already provided a response to EIOPA's series of three papers published last year which includes comments on those additional tools and explanations of why such tools should not be implemented.

Answers to the questions raised by EIOPA

Q1) Do you have any preliminary remark or general comment regarding the topic of systemic risk and macroprudential policy in insurance?

Insurance Europe supports the current effective macroprudential framework that provides ongoing assurance that systemic risk remains limited in the European financial system and that ensures that if there are developments of real systemic concerns these are identified and managed early. There is currently no justification for major new measures that would create significant initial and/or ongoing costs.
The existing tools for the insurance industry already provide such a comprehensive macroprudential monitoring framework in place in Europe and so there is no evidence of a need for any further tools.

This existing framework includes specific reporting requirements for financial stability, the EIOPA biannual financial stability reports and stress tests. In addition, the insurance supervisory system already includes many instruments with a macroprudential impact.

Insurance Europe accepts that there are theoretically possible systemic risks emerging from the insurance sector, but would also point out that, so far, the existence of systemic risk in insurance has not been adequately substantiated. The one example often quoted regarding such a risk is in fact an example of systemic risk

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stemming from non-insurance activities. Before additional macroprudential measures can be shown to be useful and appropriate, the nature of systemic risk in insurance needs to be more clearly evidenced and articulated by EIOPA. In practice, potential systemic risks are of limited relevance for insurance, given the nature of the insurance business model, actual activities of European insurers and limited transmission channels, but also the already existing supervisory framework.

In addition, Insurance Europe would like to point out that cost-benefit analyses are absolutely essential in order to prevent ineffective or inefficient regulation that impairs the economic capacity and the social role of the insurance industry. Any new measures aimed at reducing risks cause expenditure for insurers, which must be balanced by an adequate benefit, also in the overall view of the entire economy. Otherwise, too much or inappropriately-designed regulation of the insurance sector could be counterproductive and lead to higher systemic risks, eg if it negatively impacts insurers in their role as long-term investors, lead to lack of supply of crucial insurance products or impairs their competitive position compared to other (less regulated or unregulated) industries.

In order to avoid counterproductive effects, care must also be taken to avoid that monitoring tools for insurers become de facto intervention tools and therefore there should be no definitions of thresholds/triggers attached to these.

Insurance Europe remains concerned by the fact that several workstreams on the macroprudential framework in insurance are run at the same time at European (EIOPA, ESRB) and international (IAIS) level. Insurance Europe believes that consistency between these workstreams is essential.

To limit unnecessary costs and burdens for insurers and supervisors, EIOPA could consider a process whereby an activity-based assessment (ABA) is made by the supervisor to assess which insurers are the most vulnerable to real systemic risk, taking into account potential for transmission to the economic system as well as actual systemic exposures. Based on that, the supervisor would engage the insurer, as part of the ongoing supervisory review process, to discuss the elements of the ABA. In this dialogue the supervisor and the insurer would discuss which actions, if any, would be required to mitigate any components of systemic risk.

When there is a need to discuss any macroprudential actions, this should be done through insurers' lead supervisor.

Q2) Do you have any further considerations on the conceptual approach to systemic risk and the macroprudential framework proposed?

General comments

- EIOPA (in the first of its three-paper series) discusses systemic risk in the banking sector and indirect sources of systemic risk from insurance at length. Furthermore, it focusses on systemic risk in a pre-Solvency II era. This does not seem a good enough basis to draw appropriate conclusions, as Solvency II represents a regime change in insurance supervision that also includes many new macroprudential elements, the impact of which will only become apparent over time.
- The essential aspect in the evaluation of the systemic risk potential of European insurers is the identification of activities that may give rise to stability concerns and of the transmission channels through which this could occur. However, EIOPA notes that it aims to identify and analyse sources of systemic risk from a conceptual view; it is not addressing these in terms of likelihood or impact. As it does not consider the plausibility of the conceptual sources described, the effectiveness of mechanisms in place to impede transmission, or the likelihood of impact, EIOPA does not sufficiently demonstrate that there are systemic risks of European insurers that warrant additional policy measures. It is therefore difficult to see how additional macroprudential instruments for insurers could be justified after a cost-benefit analysis.
- In fact, EIOPA's recent pape "Failures and near misses in insurance", concludes that the most common causes of failure for European insurers are linked to management & staff competence risk and internal governance & control risk (ie internal causes rather than external ones). Again, it becomes apparent here

that the impact of significant new Solvency II elements like the fit & proper provisions and pillar II requirements were designed with exactly these issues in mind and so need to be considered over time.

- In addition, because the analysis of existing measures in the second of EIOPA's papers only focuses on aspects of Solvency II that EIOPA considers as having macroprudential relevance, it fails to adequately consider Solvency II as a whole. By limiting its focus in this way, EIOPA fails to address elements of Solvency II that may have systemic relevance, such as the Risk Margin. EIOPA rightly identifies the Transitional Measure on Technical Provisions (TMTP) as a macroprudential measure. However, in order to properly address systemic risk and procyclicality, the Risk Margin itself should be subject to detailed review. EIOPA should also analyse how certain provisions of Solvency II could damage the stability and effectiveness of the financial system in supporting the EU economy (eg, artificial volatility, incentives for pro-cyclical behaviour, disincentives for long-term investment). As part of this, EIOPA should review the systemic implications of applying a short-term, one-year Value at Risk (VaR) to life insurers that have long-term assets and liabilities.
- EIOPA should fully consider not only how existing Solvency II measures mitigate systemic concerns and how any additional tools link to them, but also the existing roles/activities that it and the ESRB have in relation to systemic risk, in order to determine whether there are any deficiencies with these that would warrant additional measures. EIOPA's analysis should cover, for example, the role of the stress testing exercise, its preparation of market wide risk indicators, and its regular financial stability reports and risk dashboards.
- EIOPA mentions that EU-level work on systemic risk of insurers must be consistent with international developments and not pre-empt them but does not follow this principle; in fact, while the IAIS is currently developing a holistic approach to systemic risk in insurance, EIOPA has started a separate and parallel workstream.
- It is not clear why the choice of measures, largely taken from EIOPA's third paper on systemic risk, have been chosen over other approaches outlined in its previous two papers. There does not appear to be any clear reasoning as to why certain measures have been chosen over others.

Specific comments on EIOPA's conceptual approach

In table 2 of its discussion paper, EIOPA links the direct and indirect impact of macroprudential policies. The table highlights from the perspective of EIOPA how insurers could create or amplify systemic risk. When considering this table, one has to consider that individual insurers under Solvency II have to maintain capital to absorb a loss of a 1-200-year event. Based on article 45 of the Solvency II Directive, insurers also have to assess those scenarios which could have an adverse effect on the capital position in the long run. In the table, EIOPA lists all kind of macroprudential events, which should actually already be covered by insurers complying with the existing Solvency II requirements. Examples of this are provided in the points below.

- With respect to *entity-based related sources*: It is unclear from the table and the description how this entity-based sources relate to the ladder of intervention before a failure really occurs.
- With respect to *activity-based related sources*: EIOPA identifies non-hedging derivatives as activity-based source. However, it is not clear how this would relate to systemic risk creation. Besides, investments and products sold are subject to internal policies of management, risk tolerances and risk limits. In this sense, the supervisory authorities would question any exaggeration or breach as part of the supervisory review process.
- With respect to *behaviour related sources*: The sources mentioned would only exist if insurers would fail internal processes or have incorrect risk appetite, tolerances and limits.

Q3) What are your views on how the Solvency II tools outlined above deliver against the operational objectives defined?

Insurance Europe emphasises that some tools in Solvency II are useful in preventing collective behaviour that may exacerbate market price movements. The volatility/matching/symmetric equity adjustments and the transitional measures on technical provisions were designed to reflect the long-term nature of insurance and/or the economic impact of asset liability management. As such, they are meant to help avoid excessive transmission of market volatility to the insurers' balance sheet and therefore reduce the risk that Solvency II measurement encourages, otherwise unnecessary, procyclical behaviour during stressed events. Systemic risk supervision should not be exercised with undue excessive short-term biases.

The effectiveness of the "extension of the recovery" period has not been tested until now. Therefore, it is only theoretically assumed it will contribute to the operational objective. If the 2018 stress test exercise of EIOPA had considered a multi-year approach, the effectiveness could have been tested.

Tools can also have unintended consequences and therefore the impact of any tools should be assessed from all perspectives, including the interest of policyholders. For example, a proper risk-return assessment will generate returns which would result in premiums to be optimised. Too many restrictions will lead to negative effects in the risk-return measure.

One of the "operational objectives" targeted is "to discourage risky behaviour". What is the definition and who will define this? Risky behaviour would, in Solvency II, in general lead to higher capital requirements. Too high concentrations will also lead to additional capital requirements.

Q4) Is there any other existing Solvency II tool with direct macroprudential impact that is relevant? If yes, please: 1) describe the tool; 2) explain which source of systemic risk it would be targeting (see Table 3); and 3) explain the transmission channels through which it may propagate to the result of the financial sector, if relevant.

Insurance Europe shares EIOPA's assessment that the current Solvency II framework has a direct and indirect macroprudential impact. Insurance Europe believes that – beyond specific instruments – the quality of Solvency II as a whole is crucial not only for effective microprudential supervision, but also from a macroprudential perspective. Irrespective of the exact sources of potential systemic risks, there is a broad consensus that unidentified vulnerabilities and insufficient resilience of insurers towards unfavourable developments are the leading cause for (collective) activities of insurers to contribute to systemic risk in the financial system.

However, eliminating such vulnerabilities and ensuring a sufficient solvency position and risk-bearing capacity is already the aim of microprudential supervision. Therefore, an effective microprudential supervisory system (Solvency II) is a key component of macroprudential policy as well, as it counteracts all potential systemic risks from the insurance industry (from contagion risks due to fire sales of assets to a sudden withdrawal of insurance services following a phase of under-pricing or massive cyber risks). This means that improvements in the workings of Solvency II can substantially contribute to supporting financial stability and may in fact have a larger positive effect than new, explicitly macroprudential, measures.

The "supervisory review process" (SRP) is not mentioned by EIOPA as a tool. In the SRP the supervisor is able to target most of the "operational objectives" of macroprudential policy which are related to activity and behaviour based related sources. The supervisory authorities will assess the policies, the quantitative and qualitative information provided by the insurer. Based on this assessment, the supervisory authorities could/should assess whether any "operational objectives" are endangered and could discuss this with the Administrative Management or Supervisory Board (AMSB) of the insurer and agree on necessary measures, if deemed appropriate.

Q5) Do you agree with the list of tools to be further considered?

In light of the very limited need for additional macroprudential measures, Insurance Europe strongly believes that only the tools mentioned by the European Commission in its call for Advice (CfA) should be further considered in the context of the 2020 Solvency II Review. Therefore, Insurance Europe will not comment on any additional tools but refers EIOPA to its response to the series of three papers published last year.

Q6) What should be the overarching principles to be considered by authorities for these tools and measures?

Overarching principles (in addition to what the Solvency II regime aims at) should include:

- The implementation and activation of any macroprudential tools should not distort the economic functioning of the insurance market or any other market used by insurers, nor should it put insurers at a competitive disadvantage compared to other (financial) institutions.
- The implementation and use of any tools should not increase unduly the administrative burden. The assessment of the operational aspects and challenges of the potential tools will be crucial when deciding on which tools to consider further.
- The tools should be applied in a proportionate manner and should explicitly integrate the possibility for proportionality. The tools should also be proportionate to 1) the objective or the risk the tool would mitigate and 2) the probability of occurrence of the risk which is mitigated by the tool.

Other comments

- EIOPA discusses several potential measures for insurers that are mainly microprudential in character to enhance the macroprudential framework, but it is rather unclear how EIOPA makes the link between these two levels. The Solvency II framework requires the identification, assessment, monitoring and reporting of short and long-term risks that a (re)insurance undertaking may face. This is already a powerful micro- and macroprudential tool.
- The differences between the business models of banks, insurers and other financial institutions should be appropriately considered in the development of any macroprudential tools and care should be taken that such tools do not conflict with one another, particularly in the case of financial conglomerates. This requires coordination among the European Supervisory Authorities (ESAs).
- An in-depth cost-benefit analysis is required before any of these suggested tools can be fully assessed. Such an analysis would reveal that many of these proposals would duplicate existing elements in Solvency II and would lead to significantly higher reporting burdens or additional costs, without clear benefits for financial stability or policyholder protection. Against this backdrop, Insurance Europe draws attention to the negative impact of over-regulation on the effectiveness of the insurance industry in its socially-essential roles of risk carrier and as long-term investor.
- Further consideration of the additional measures currently envisaged is needed to ensure that EIOPA does not jeopardise the calibration of Solvency II agreed at political level. Unnecessarily high capital requirements lead to unnecessary cost and adverse impacts on policyholders.
- It should be made very clear that the ladder of supervisory intervention starts only when the solvency capital requirement (SCR) is breached and any buffers held above the SCR should be entirely at companies' discretion. If certain firms are forced to hold capital buffers above SCR this would create an unlevel playing field that would damage competition in the market, resulting in reduced product availability and/or increases in premiums.
- Throughout the discussion, it should be made clearer that the assessment of systemic risk should be made at group level, given the intention is to address risks to the entire financial system.

Q7) Is there any other relevant macroprudential tool or measure that should be considered for the insurance sector? If yes, please: 1) describe the tool or measure; 2) explain which source of systemic risk it would be targeting (see Table 3); and 3) explain the transmission channels through which it may propagate to the result of the financial sector, if relevant.

No comments.

Q8) What are your views on the first definition of leverage ratio considered?

No comments.

Q9) What are your views on the second definition of leverage ratio considered? Are there any non-insurance liabilities missing?

No comments.

Q10) Is there any other relevant definition of leverage ratio in insurance that should be considered? If yes, please explain.

Insurance Europe has already commented on EIOPA's proposals for a leverage ratio here and explained why we do not support this as a macroprudential tool. However, as this is not one of the elements mentioned in the European Commission's Call for Advice, Insurance Europe will not comment further at this stage.

Q11) What are your views on the on the usefulness and mechanics of the tool? Do you identify other elements that would need to be reported for an appropriate monitoring?

No comments.

Q12) Please describe the available data and robust methods within an insurance undertaking on the deviation of the best estimate assumptions from the actual experience that could be used to monitor against under-reserving.

No comments.

Q13) What would you estimate as the benefit/positive impact of the implementation of the measure, where applicable, for the industry, for policyholders and/or for supervisors?

No comments.

Q14) What would you estimate as the costs/negative impact of the implementation of the measure? Can you please: a) Describe the main cost drivers or negative impact, where applicable, for the industry, for policyholders and/or for supervisors; b) Split between one-off and ongoing costs; and c) Consider possible options to mitigate those costs.

Insurance Europe has already commented on EIOPA's proposals for enhanced monitoring for market-wide under-reserving here and explained why it does not support this as a macroprudential tool. However, as this is not one of the elements mentioned in the European Commission's Call for Advice, Insurance Europe will not comment further at this stage.

Q15) Do you consider that the capital surcharge can effectively contribute to the mitigation of systemic risk? If not, please explain why.

No comments.

Q16) What would you estimate as the benefit/positive impact of the implementation of the measure, where applicable, for the industry, for policyholders and/or for supervisors?

No comments.

Q17) What would you estimate as the costs/negative impact of the implementation of the measure? Can you please: a) Describe the main cost drivers or negative impact, where applicable, for the industry, for policyholders and/or for supervisors; b) Split between one-off and ongoing costs; and c) Consider possible options to mitigate those costs.

No comments.

Q18) On which basis would a capital surcharge for systemically important insurers, for certain types of activities and for collective behaviour be triggered?

No comments.

Q19) What would be the challenges if the surcharge would be calculated similar to the SCR via a (partial) internal model or the standard formula?

No comments.

Q20) What do you see as possible interactions with other Solvency II instruments? What is the best way to integrate such a tool in Solvency II? As a new tool or by broadening the scope of the current capital add-on?

No comments.

Q21) What could be the possible impact of this tool on the insurers' behaviour (if any)?

Insurance Europe has already commented on EIOPA's proposals for a capital surcharge for systemic risk here and explained why we do not support this as a macroprudential tool. However, as this is not one of the elements mentioned in the European Commission's Call for Advice, Insurance Europe will not comment further at this stage.

Q22) Are there any other elements to be included in the reporting requirement in order to identify potential system-wide liquidity stresses?

Additional reporting requirements are not needed. With respect to the assessment of the surrender options, it suggests that EIOPA considers the fact that policyholders will normally not directly surrender their insurance policies after the occurrence of a sudden event. Policyholders will wait to see whether the event lasts longer, is permanent or is deemed to be an incident. Key is the retention assumptions of policyholders. Another element for policyholders to consider is the availability of alternatives, including the possibility to again buy the insurance cover needed to enhance the long-term goals of that policyholder.

Q23) What would you estimate as the benefit/positive impact of the implementation of the measure, where applicable, for the industry, for policyholders and/or for supervisors?

No comments.

Q24) What would you estimate as the costs/negative impact of the implementation of the measure? Can you please: a) Describe the main cost drivers or negative impact, where applicable, for the industry, for policyholders and/or for supervisors; b) Split between one-off and ongoing costs; and c) Consider possible options to mitigate those costs.

In EIOPA's paper on "Failures and near misses in insurance", 180 cases are analysed but illiquidity does not play a role in any of them. This confirms that while liquidity risks are not and should not be ignored, concern over the issue should not be exaggerated and an extension of requirements or additional ratios, like in the banking sector, seems unjustified.

Insurance Europe recognises the importance of liquidity risk management in insurance but points out that Solvency II already requires insurers to invest in a manner that ensures portfolio liquidity and there are already microprudential constraints on liquidity. Furthermore, Solvency II requires insurers to implement an effective liquidity risk asset-liability-management (Art. 44 2b) and d) of the Solvency II Directive). Mass lapse risk already measures a significant part of liquidity risk. The additional burden of liquidity risk reporting and ratios can be considerable and should be minimised.

A large amount of data is already available to supervisors. Solvency II reporting templates (eg S.06.02, S.13.01, S.18.01) could be the basis for a liquidity analysis. When relevant, NSAs may provide expertise on specific characteristics in their markets. EIOPA proposes to collect new data on contract features (on the liability side).

Insurance Europe would remind EIOPA that liquidity risk is managed through the company ALM. So, any reporting on liquidity risk, should encompass all asset-liability aspects. At this stage, it is very unclear how EIOPA's proposed approach can reach this goal.

More information and reports could produce significant administrative burdens and IT investments, at the expense of insurers and authorities. A comprehensive cost-benefit analysis is necessary before any extension of reporting requirements, recognising existing Solvency II liquidity measures and other macroprudential information. In fact, a parallel workstream run by EIOPA aims to reduce and streamline the Solvency II reporting requirements, and a consultation is expected in summer 2019. Insurance Europe suggests avoiding separate data request outside of the already-existing framework of Solvency II reporting and its upcoming review.

Regarding the aspects for which information is currently not available and might be considered (table 8 of the discussion paper), all three aspects ("profit sharing of the policy", "exit fee and/or market value adjustment upon surrender", and "taxation (tax deductibility of the premium and exemption of withholding tax upon surrender)") are already part of EIOPA's current information request on Long-Term Guarantees and illiquidity. EIOPA should wait for the results of the information request, before suggesting any additional reporting.

Q25) Are there any other relevant indicators that could be considered to detect potential systemic liquidity stresses?

Insurance Europe has already commented on EIOPA's proposals for liquidity risk ratios here and explained why we do not support this as a macroprudential tool. However, as this is not one of the elements mentioned in the European Commission's Call for Advice, Insurance Europe will not comment further at this stage.

Q26) Do you consider that a temporary freeze on redemption rights in exceptional circumstance can effectively contribute to the mitigation of systemic risk? If not, please explain.

No comments.

Q27) How could the term "exceptional circumstances" be understood, i.e. what should be the trigger(s) to activate this tool?

No comments.

Q28) What should be the optimal period of freeze or limitation of redemption rights?

No comments.

Q29) In case of limiting the redemption rights, what could be the relevant criteria for such a limitation (absolute threshold or percentage)?

No comments.

Q30) What would you estimate as the benefit/positive impact of the implementation of the measure, where applicable, for the industry, for policyholders and/or for supervisors?

No comments.

Q31) What would you estimate as the costs/negative impact of the implementation of the measure? Can you please: a) Describe the main cost drivers or negative impact, where applicable, for the industry, for policyholders and/or for supervisors; b) Split between one-off and ongoing costs; and c) Consider possible options to mitigate those costs.

No comments.

Q32) What could be the possible impact of this tool on the insurers' behaviour (if any)?

No comments.

Q33) What do you see as possible interactions with other Solvency II instruments (if any)?

Insurance Europe has already commented on EIOPA's proposals for temporary freezes on redemption rights here and explained why we support this as a macroprudential tool. However, as this is not one of the elements mentioned in the European Commission's Call for Advice, Insurance Europe will not comment further at this stage.

Q34) Do you miss any relevant type of concentration?

No comments.

Q35) Which elements should be considered to ensure that the required national flexibility to address the national specificities of the markets does not compromise the level playing field in the EU?

No comments.

Q36) What could be the possible impact of this tool on the insurers' behaviour (if any)?

Insurance Europe has already commented on EIOPA's proposals for concentration thresholds here and explained why we do not support any concentration thresholds as a macroprudential tool. However, as this is not one of the elements mentioned in the European Commission's Call for Advice, Insurance Europe will not comment further at this stage.

Q37) How could the ORSA be enhanced to also include macroprudential considerations? Please provide a detailed suggestion.

The ORSA, in its current configuration, can be used to include macroprudential considerations and thus an enhancement is not necessary.

In paragraph 107, EIOPA states it needs *"clarification of the role of the risk management function in order to include macroprudential concerns"*. It should be the organisation and AMSB who should deal with the macroprudential concerns. The risk management function should contribute to the design and application of any internal risk management processes.

The ORSA should remain the tool of the insurer and not a tool of the macroprudential supervisory authorities. It is the core tool for management to assess their vulnerabilities from the perspective of the insurer outside-in and inside-out. If there are relevant macroprudential concerns, they will not only be addressed in the ORSA. Solvency II already requires companies to have ongoing risk identification and management processes in place to deal with macroprudential or other concerns which need immediate attention.

Supervisory measures are permitted under the supervisory review process (Art. 36 of the Solvency II Directive) including proportionality (Art. 29 IV of the Solvency II Directive) and the risk-based approach (Art. 29 I of the Solvency II Directive). The relationship between the insurer and the supervisor in the supervisory review process is crucial.

Insurance Europe sees the need for a clearly defined mechanism with respect to the scope of application of policy measures: before requiring the application of a supervisory power of intervention, a national supervisor should coordinate with the insurer, achieve a mutual understanding of the situation that might give rise to systemic risk and discuss alternatives. The insurer should also be given the right to appeal against certain measures. Otherwise, the new approach may result in subjectivity, an unclear scope of application and in regulatory uncertainty for many insurers.

In figure 6, on page 36 of the discussion paper, there is no inclusion of a focused approach nor the application of proportionality.

Q38) What would you estimate as the benefit/positive impact of the implementation of the measure, where applicable, for the industry, for policyholders and/or for supervisors?

No comments.

Q39) What would you estimate as the costs/negative impact of the implementation of the measure? Can you please: a) Describe the main cost drivers or negative impact, where applicable, for the industry, for policyholders and/or for supervisors; b) Split between one-off and ongoing costs; and c) Consider possible options to mitigate those costs.

No comments.

Q40) What could be the possible impact of this tool on the insurers' behaviour (if any)?

No comments.

Q41) What do you see as possible interactions with other Solvency II instruments (if any)?

Insurers are already required to consider in ORSA all material risks that may have an impact on their ability to meet their obligations to policyholders. Hence, insurance companies are already considering systemic risks that could have a material impact on their business, eg credit cycles, real estate bubbles, reduced market liquidity.

EIOPA discusses extending the current scope of the ORSA process to include a specific macroprudential aspect in order to check the ORSA reports against macroprudential risks. To this end, it envisages a "macroprudential authority" that aggregates input from NSAs on individual company ORSAs, analyses this information and then provides macroprudential input to the NSAs which can be used as part of the ORSA process.

Insurance Europe would caution against greater prescriptiveness in the ORSA process, as the liberty to choose relevant scenarios is a key component to the ORSA's value. In line with the concept of Solvency II, ORSA is the central management tool that helps the Management Board to make sound strategic decisions and to manage all material risks according to its undertaking-specific business strategy. Mandatory input from the supervisory authority contradicts the idea of an ORSA. It is not the tool to deal with supervisory enquiries and should remain an instrument tailored to the individual insurance group/company.

"Enhancing" the ORSA as EIOPA suggests risks actually increasing its complexity and diminish its usefulness to insurers and its wider financial stability benefits. In addition, ORSAs are already assessed by the relevant supervisory authorities and Insurance Europe does not agree that the addition of another layer of macroprudential supervisory approval is warranted, justified or desirable.

It is further questionable whether the potential benefit of analysing the process and organisation of many thousands of ORSAs would justify the cost of such a process. It seems impossible to collect ORSA data and to ensure comparability, due the fact that the ORSA is the company's own analysis. This means that insurers' ORSAs differ greatly in terms of eg focus, content and design. To require insurers to follow certain templates for the ORSA (in order to facilitate data collection by EIOPA) goes strongly against the purpose of the ORSA. It is therefore questionable whether such an exercise would be useful in decision making or would provide additional insights above those obtained from current EU stress testing exercises.

A more proportionate and pragmatic approach would be for NSAs to continue to assess the ORSA on a standalone basis and to discuss any macroprudential concerns with the relevant macroprudential authorities, such as the ESRB. In this context, macroprudential monitoring of liquidity management could be useful if applied in a proportionate manner, but this should not be overly prescriptive.

EIOPA already has at its disposal the stress test exercises. This tool relies on standardised stress scenarios across the insurance market. It enables EIOPA to have an aggregate analysis at market level of the impact caused by the same scenarios applied to all the companies which are concerned. This tool appears more efficient and relevant than an enhancement of the ORSA. Nevertheless, Insurance Europe does not believe that an extension of stress tests to the entire market is relevant. EIOPA should instead focus on identifying potentially systemic activities, in line with the Holistic Approach to Systemic Risk being developed at the international level. This approach is likely to involve only a limited number of firms at any one time.

Q42) How could the prudent person principle be enhanced to also include macroprudential considerations? Please provide a detailed explanation.

EIOPA presents in paragraph 111 some of the operational aspects. However, in this section EIOPA seems to forget that investment strategies are based on ALM studies. The characteristics of the insurance liabilities, the risk appetite and additional risk limits are key in setting any investment strategy. Any interventions of the supervisory authorities in this process will have a negative impact on the ability to align the cash flows and/or returns necessary to meet the obligations of the policyholders.

EIOPA states that one of the objectives of the "enhanced PPP" is to avoid "excessive concentrations". In Article 260 on Risk Management Areas of the Solvency II Delegated Regulation, the following is stated: *"(e) Concentration risk management: actions to be taken by the insurance or reinsurance undertaking to identify relevant sources of concentration risk to ensure that risk concentrations remain within established limits and actions to analyse possible risks of contagion between concentrated exposures."* Before any additional tools are introduced, EIOPA should assess how this existing requirement is implemented and how it works in practice. In fact, any introduction of new tools on concentration would duplicate existing requirements.

Q43) Ex-ante impact: How could be ensured that insurers take into consideration the macroprudential concerns (e.g. a questionnaire or template)?

EIOPA has described in its guidelines on Governance (ie guideline 24 Asset-Liability Risk Management Policy) that *"a description of the underlying methodology and frequency of stress tests and scenario tests to be carried out"*. The scenarios should ensure that the investment strategy and PPP also work well in adverse circumstances. As part of the SRP, the supervisor should ask how the investment strategy holds up in adverse circumstances and which scenarios are assessed. This should not be a fixed element as insurers will be impacted differently because of their distinct risk profile. No *one size fits all* approach is appropriate.

In its final report on guidelines on governance from 2015, EIOPA notes: *"2.124. Along with the investment strategy, an ALM strategy describes how financial and insurance risks will be managed in an asset-liability framework in the short, medium and long term. Where appropriate, the investment strategy and the ALM strategy could be integrated in a combined investment/ALM strategy. The respective written policies are expected to reflect the implementation of these strategies"*. This implies that the insurer will take care of the mid and longer term. Therefore, no new tool is necessary, but if one should be introduced, a questionnaire seems the best choice.

Q44) Ex-post analysis: In your view, what would be relevant to consider in order to make sure that supervisors can aggregate and analyse the information?

EIOPA receives in a frequent manner all the investment exposures of insurers. This information can be analysed in such a manner that trends and developments are identified. Any concerning trends in the perspective of the macroprudential supervisory authorities can be identified, analysed and put back to the individual supervisory authorities. These supervisors can discuss this with the relevant insurers.

The question is whether an aggregation of the PPP is appropriate and will generate sufficient information to assess the systemic risk impact for insurers without excessive costs. The PPP and investment strategy are part of a bigger process in which also the insurance liabilities are considered. Aggregating the information of the PPP as proposed by EIOPA will be burdensome both for insurers and supervisors and will not bring any benefit to macroprudential supervision.

Q45) What would you estimate as the benefit/positive impact of the implementation of the measure, where applicable, for the industry, for policyholders and/or for supervisors?

No comments.

Q46) What would you estimate as the costs/negative impact of the implementation of the measure? Can you please: a) Describe the main cost drivers or negative impact, where applicable, for the industry, for policyholders and/or for supervisors; b) Split between one-off and ongoing costs; and c) Consider possible options to mitigate those costs.

No comments.

Q47) What could be the possible impact of this tool on the insurers' behaviour (if any)?

No comments.

Q48) What do you see as possible interactions with other Solvency II instruments (if any)?

With the introduction of Solvency II, hard regulatory investment limits were replaced by the prudent person principle (PPP) as a principle-based approach. According to Article 132 of the Solvency II Directive, insurers have to invest their entire capital in a way that ensures the security, quality, liquidity and profitability of the portfolio as a whole. That means that already today insurance companies have to and do consider potential risks to the integrity and stability of financial markets in their investment strategies.

As with the extended scope of the ORSA, EIOPA discusses enhancing the PPP by providing a role for a "macroprudential authority" to extract macroprudential feedback for supervisors from insurers investment strategies. Given the diverse range of investment strategies employed across Europe, the overall feasibility of this exercise is questionable. Even assuming that it is feasible, the potential benefits of such an exercise are doubtful.

It is also not clear the extent to which EIOPA is proposing to restrict insurers' investment strategy. The consequences of such restriction would be to create an unlevel playing field, since restrictions would by necessity be applied unevenly. It would also lead to herding behaviour as firms would rush to invest in the same assets that are deemed appropriate. This would result in supervisory intervention itself creating procyclicality and potentially systemic risk.

Insurance Europe notes that supervisors can already monitor the implementation of the PPP through the investment strategy described in the Regular Supervisory Report (RSR). Insurance Europe strongly supports the PPP and does not believe any changes are necessary. It does not support any changes or enhancements which would result in rules and restrictions.

Q49) How could proportionality in the recovery plans be ensured? Please provide a detailed answer.

A regulatory requirement for pre-emptive recovery planning should only be considered for limited cases and only for insurers where it would provide a tangible benefit to financial stability. Providing preventive recovery plans for all or a large part of insurers is not efficient, as it could create substantial additional costs without any additional benefit. To determine the benefits, the likelihood of a crisis of an individual company or group and the impact of such a crisis on the financial system should be considered.

Regarding the development of the plan, proportionality should apply in the following aspects:

- allowing the insurer to use a phased approach for the development of a recovery plan by drafting the first version of the complete document over a more extended period of time
- allowing the insurer to align the timing of the development process with that of existing tools to minimise the needed resources
- varying the level of detail and content requested in the plan, for instance that the insurer may not address all elements of a formal recovery plan or consider detailing fewer recovery options and stress scenarios in the plan.

Regarding the maintenance of the recovery plan, proportionality should apply in the following aspects:

- varying the frequency for the regular update of the recovery plan, especially when key relevant characteristics have not changed materially year on year
- allowing less frequent monitoring by the insurer of some of the indicators in the recovery plan, such as the status of any non-material entities within a group. In addition, it should be possible to exempt individual companies that meet certain criteria.

For groups, it should be stated clearly that recovery plans at group level are sufficient. Multiple recovery plan at entity level are not a preferred option as each recovery plan needs to consider relevant group aspects anyway (like liquidity outflows, possible equity injections within the group).

Q50) What would you estimate as the benefit/positive impact of the implementation of the measure, where applicable, for the industry, for policyholders and/or for supervisors?

No comments.

Q51) What would you estimate as the costs/negative impact of the implementation of the measure? Can you please: a) Describe the main cost drivers or negative impact, where applicable, for the industry, for policyholders and/or for supervisors; b) Split between one-off and ongoing costs; and c) Consider possible options to mitigate those costs.

No comments.

Q52) What could be the possible impact of this tool on the insurers' behaviour (if any)?

No comments.

Q53) What do you see as possible interactions with other Solvency II instruments (if any)?

EIOPA discusses a requirement for insurers to develop and maintain pre-emptive recovery plans even when the SCR is above 100%. This would go further than what is currently foreseen by Solvency II, which already requires the development of a recovery plan once an insurer breaches, or is likely to breach, in the short-term the SCR. Because recovery plans are already required by the Solvency II Directive when the SCR is breached, it would be necessary to refer to EIOPA's proposal as "**pre-emptive** recovery plans" throughout the document.

While recovery planning at the group level can be a good risk management practice in helping companies identify and understand key vulnerabilities, a regulatory requirement for pre-emptive recovery planning should only be considered at group level and only for insurers where it would provide a tangible benefit to financial stability. To determine this, the relevant supervisory authorities should consider all information that is already available under Solvency II (including the ORSA, stress test results, medium-term capital management plans and contingency plans).

Insurance Europe agrees with EIOPA that proportionality is a key factor here and that a power for Member States and/or NSAs to waive this requirement for certain insurers based on a set of harmonised criteria is appropriate.

EIOPA stated in its previous papers that the costs of developing recovery plans are generally deemed not to be very high compared with the benefits accrued. While this may have been true for the formerly designated global-systemically important insurers (G-SIIs), it is less true for less complex insurers. This is why proportionality should be applied so that insurers do not have to devote unnecessary resources developing such plans when the relevance of doing so is rather limited and could be counter-productive where it acts as a distraction for more effective preventive measures.

Insurance Europe suggests the following principles that should be followed when drafting a recovery plan:

- A group recovery plan should be sufficient and should automatically satisfy requests for setting up national plans for subsidiaries, as recovery measures concern the whole group (eg intra-group capital injections). A myriad of local recovery plans would not only be confusing but would unduly increase the regulatory burden without bringing any added value. In addition, a group recovery plan would be deemed sufficient as increased cooperation and coordination between relevant authorities (eg through the supervisory college) will have ensured that such a plan is appropriate. This should apply to both groups based in the EU and groups based outside the EU but with subsidiaries in Europe.
- The plan should be set up to include all material legal entities which make up a substantial part of the group's total assets and operating profits. A broader scope would not yield any new recovery options.
- The recovery options should be commensurate to the stresses they are seeking to address. The modelled stresses should be restricted to a few meaningful ones and an idiosyncratic one. The number of large-scale recovery options is limited, so using a larger number of tests would not help identify more recovery options.
- Data privacy must be secured when sharing the recovery plan among relevant supervisors and the confidentiality of the recovery plan must be ensured.
- The plan should include the identification of possible recovery options, such as actions to strengthen the capital situation, and be presented as a toolbox without any script to address a given scenario.
- In line with the principle of proportionality, and considering the long-term nature of life insurance business, insurers should be allowed to provide updated recovery plans at longer intervals and also when there are material changes in risk or business structure.

As for potential interactions with other Solvency II instruments, there are overlaps with ORSA and stress tests (including reverse stress testing). In addition, there would be obvious links between pre-emptive recovery planning and the recovery planning required after a breach of the SCR in Solvency II.

Q54) How could proportionality in the resolution plans be ensured? Please provide a detailed answer.

No comments.

Q55) What would you estimate as the benefit/positive impact of the implementation of the measure, where applicable, for the industry, for policyholders and/or for supervisors?

No comments.

Q56) What would you estimate as the costs/negative impact of the implementation of the measure? Can you please: a) Describe the main cost drivers or negative impact, where applicable, for the industry, for policyholders and/or for supervisors; b) Split between one-off and ongoing costs; and c) Consider possible options to mitigate those costs.

No comments.

Q57) What do you see as possible interactions with other Solvency II instruments (if any)?

Insurance resolution does not have the same urgency as bank resolution, nor does it involve the same degree of counterparty exposure, while tools such as portfolio transfer and run-off facilitate this longer-term process. Authorities should therefore be able to adapt their approach and plans as the situation evolves.

This is why, while Insurance Europe does not have a strong view on a possible requirement for pre-emptive resolution plans, it seems reasonable to apply proportionality and flexibility considerations, to facilitate the task of the group supervisor. Operational resolution plans need to be tailored to the circumstances of the insurer and should also be flexible, allowing authorities to consider the circumstances of resolution. At the same time, overreliance on resolution plans may obstruct the clear view on the causes for a crisis and the adequate measures to cope with them.

In order to avoid excessive burdens for insurers, resolution authorities should try to limit the information required from insurers (in the context of drafting the resolution plan) to what is essentially needed and cannot be gathered from other sources, such as secondary data and existing information from the ORSA, medium-term capital management plan, contingency and emergency plan and from reporting of intragroup transactions. An annual adjustment of the pre-emptive resolution plan would only be needed in case of material changes to the insurers' risk profile, business or group structure. Otherwise, just a confirmation of the main assumptions used for the preparation of the plan should be sufficient.

There will necessarily be differences between the content of recovery plans and resolution plans. Recovery plans focus on a going concern and therefore are broad in scope. Resolution plans should be clearly focused on liquidation planning for material legal entities within a group, to avoid the planning process becoming unduly burdensome for the insurer and/or supervisor, without providing material added benefit. The results from the pre-emptive recovery planning should also be considered.

In general, if recovery planning is realistic, then resolution planning will be less necessary.

With respect to the methodology, the stated objective of EIOPA is *"to protect systemic functions"*. EIOPA should first identify and assess such functions and then consider how to protect them. Regarding the lack of resolution powers in some Member States, the industry notes that such powers should be carefully considered, to not reduce the fungibility of capital within a group.

In the context of financial conglomerates, EIOPA should consider that any recovery and resolution planning requirements should be coordinated with those in other financial sectors (eg in the Bank Recovery and Resolution Directive) and should also be harmonised with existing rules for financial conglomerates, in order for the conglomerates to fulfil all regulatory requirements in a reasonable and practical manner.

Q58) Do you consider that systemic risk management plans can effectively contribute to the mitigation of systemic risk? If yes, what are the key elements that should be considered? If not, please explain why.

EIOPA must thoroughly assess the additional benefit of having to draft any of the plans currently envisaged: contingency planning, pre-emptive planning and systemic risk planning, and consider the measures that already exist within the Solvency II framework. From a proportionality point of view, there should be a cascade in order not to duplicate requirements and increase the administrative burden in an unnecessary and disproportionate fashion.

For systemic risk plans in particular, any additional requirement should be contingent on the identification of systemic risk having been established, especially through evidence of a clear transmission channel into the wider economy from an identified activity.

Q59) Which companies should be included within the scope of the systemic risk management plans? What should be the criteria to be considered?

No comments.

Q60) What would you estimate as the benefit/positive impact of the implementation of the measure, where applicable, for the industry, for policyholders and/or for supervisors?

No comments.

Q61) What would you estimate as the costs/negative impact of the implementation of the measure? Can you please: a) Describe the main cost drivers or negative impact, where applicable, for the industry, for policyholders and/or for supervisors; b) Split between one-off and ongoing costs; and c) Consider possible options to mitigate those costs.

No comments.

Q62) What could be the possible impact of this tool on the insurers' behaviour (if any)?

No comments.

Q63) What do you see as possible interactions with other Solvency II instruments (if any)?

It is not reasonable to expect insurers to be able to identify and address the systemic risk they may pose to the financial system by requiring a systemic risk management plan (SRMP). Monitoring and analysing potential systemic risks in the insurance sector (as far as it is needed) is the task of macroprudential supervisors at national and European level and a comprehensive macroprudential surveillance framework is already in place.

EIOPA considered costs for the implementation as not significant, especially for large insurers or conglomerates. However, more reports and information requirements can produce significant administrative burdens and necessitate additional IT investments at the expense of insurers and authorities. Before any extension of the scope of the SRMP, a comprehensive cost-benefit analysis is required, recognising already-existing macroprudential information (like QRTs and stress test information).

Insurance Europe suggests, as an alternative, to encourage undertakings, when relevant because of their size or activities, to elaborate on the *"firm to system"* risk in their ORSA to offer a more holistic view. This can already be done in the existing ORSA configuration, without any changes necessary.

Q64) Do you consider that liquidity risk management plans can effectively contribute to the mitigation of systemic risk? If yes, what are the key elements that should be considered? If not, please explain why.

EIOPA notes that *"the LRMP can increase awareness of potential liquidity risks and improve the company's ability to recover from liquidity stresses, hereby reducing (to some degree) their risk of failure, as well as contributing to the operational objective of ensuring sufficient loss absorbency capacity (from a liquidity point of view)"*.

Liquidity risk is already mentioned in the Solvency II legislative package, including in the Solvency II Delegated Regulation (article 259 and 260) and in the EIOPA guidelines on governance (eg guidelines 18 and 26). While the elements mentioned by EIOPA such as a gap analysis or liquidity stress testing are useful tools in managing liquidity risk, they are already part of the current practices around liquidity risk management. In fact, in the recent EIOPA paper on other macroprudential tools, EIOPA itself already mentions the current liquidity risk management requirements in Solvency II. These should be sufficient to address any concerns. For example, any mismatch in cash flows will result in higher capital requirements (eg interest rate risk).

To conclude, where insurers are already providing liquidity information or where liquidity concerns are not material, the LRMP is not needed to increase awareness.

Q65) Which companies should be included within the scope of the liquidity risk management plans? What should be the criteria to be considered?

Following the requirements as set out in Solvency II, all insurers are required to have appropriate planning in the area of liquidity risk.

Q66) What would you estimate as the benefit/positive impact of the implementation of the measure, where applicable, for the industry, for policyholders and/or for supervisors?

No comments.

Q67) What would you estimate as the costs/negative impact of the implementation of the measure? Can you please: a) Describe the main cost drivers or negative impact, where applicable, for the industry, for policyholders and/or for supervisors; b) Split between one-off and ongoing costs; and c) Consider possible options to mitigate those costs.

No comments.

Q68) What could be the possible impact of this tool on the insurers' behaviour (if any)?

No comments.

Q69) What do you see as possible interactions with other Solvency II instruments (if any)?

It is generally accepted that liquidity risk is not a primary risk for the wider insurance sector. In EIOPA's paper on "Failures and near misses in insurance", 180 cases are analysed but illiquidity does not play a role in any of them. This confirms that while liquidity risks are not and should not be ignored, concern over the issue should not be exaggerated and an extension of requirements seems unjustified.

Insurance Europe recognises the importance of liquidity risk management in insurance, but points out that Solvency II already requires insurers to invest in a manner that ensures portfolio liquidity, and there are already microprudential constraints on liquidity. Furthermore, Solvency II requires insurers to implement an effective liquidity risk asset-liability-management (Art 44 2 b) and d) of the Solvency II Directive). More information and reports could produce significant administrative burdens and IT investments at the expense of insurers and authorities. Before any extension of the scope of the LRMP, a comprehensive cost-benefit analysis is required, recognising existing Solvency II liquidity measures and other macroprudential information. Any request of such plans should be focussed on a limited number of insurers and be duly justified (for example, insurers heavily involved in non-traditional activities, banking or other financial activities). Like recovery and resolution plans, liquidity management plans requirements should be applied subject to the proportionality principle.

There is a strong link with existing reporting requirements. A large amount of data is in fact already available to supervisors (eg reporting templates S.06.02, S.13.01, S.18.01) and these could be the basis for a liquidity analysis. When relevant, NSAs may provide expertise on specific characteristics in their markets.