

Response to EIOPA Consultation on supervisory statement on the authorisation and ongoing supervision of (re-)insurance undertakings related to private equity

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General comments

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

- Insurance Europe welcomes the opportunity to provide feedback to EIOPA's consultation on a supervisory statement on the authorisation and ongoing supervision of (re-)insurance undertakings related to private equity.
- The revised Solvency II framework sets comprehensive and well-developed requirements regarding the authorisation and ongoing supervision of all (re)insurance undertakings in Europe. These requirements have been developed to accommodate a range of business models and investment and risk-management strategies and to date have proven to be very robust.
- Insurance Europe stresses that authorisation and supervision should remain risk-based and proportionate, and not based on ownership type alone. Where specific ownership or financing structures give rise to material governance, leverage or risk-management considerations, these should be assessed by supervisors on a case-by-case basis under the existing Solvency II framework, without creating presumptions linked solely to the identity or nature of shareholders.

- Our additional reflections on the paper are as follows. More specific points are included in the responses to the questions.
 - The proposed approach goes beyond existing governance guidelines, particularly in relation to expectations on independent valuation, governance and expertise requirements where valuation processes are outsourced (see Q6).
 - The draft supervisory statement appears, in some instances, to confuse the distinction between private equity fund ownership and broader forms of private ownership facilitated through a General Partner structure. In practice, many life insurance investments are made through permanent capital vehicles with long-term institutional investors as Limited Partners, such as sovereign wealth funds and pension funds. While ownership models may differ in their governance arrangements, any supervisory assessment should focus on the specific features of the undertaking, including decision-making processes, financial structure and risk profile, and not on broad assumptions linked to a particular investor category. Particular attention may be warranted to ensuring a clear separation between the role of the General Partner as the convener of capital and the governance and decision-making responsibilities of the regulated (re)insurance undertaking, including its board and management. This is particularly relevant to ensure that the General Partner does not effectively act as “shadow management”. However, such governance considerations are not unique to General Partner structures and may also arise in other ownership configurations, for example in listed insurers with dominant minority shareholders.

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Q2. *Do you have comments on Section 2 "Context and objective"?*

- Yes
- While EIOPA appropriately references several provisions of the Solvency II Directive, it should also take into account Articles 57 to 59, which address acquisitions and their assessment. These articles already establish a structured framework for evaluating such transactions. Considering these existing requirements, it could be useful to reflect on how the proposed Supervisory Statement aligns with, or adds to, the current regulatory framework. This may help ensure clarity regarding its role and necessity within the broader context. Any additions should remain within the scope of existing regulatory requirements without expanding them.

Q3. *Do you have comments on Section 3 "Definitions and scope"?*

- Yes
- The industry suggests further clarification on the definitions section of the consultation to ensure there is clarity over the scope of the supervisory work. To understand the perimeter of EIOPA’s expectations, it would be helpful to further outline what is meant by the terms PE funds, PE in the context of ownership and PE firms.

Q4. *Do you have comments on Section 4 "Strategy and modus operandi"?*

- Yes
- The supervisory statement states that PE typically follows the goal of selling the acquired company within 5 to 10 years, which would typically be shorter than the long-term business of insurance

undertakings. While operating in short-term cycles to achieve immediate profits would not be beneficial for policyholders, these risks do not inevitably arise with PE.

- In practice, the investment horizon depends on the specific value creation strategy pursued by the acquirer. A focus on increasing the enterprise value would require operational and strategic measures that unfold over time. An emphasis on stable and recurring dividend streams relies on building sustainable earnings capacity. Where the acquisition is driven by the aim to realise synergies within a broader group structure, integration processes and efficiency gains typically materialise only gradually. In the context of insurance undertakings, these approaches point to investment horizons that may extend beyond standard assumptions and therefore do not necessarily align with generalised observations on PE holding periods from undertakings in other industries.
- The industry would agree that it would be beneficial for supervisors to closely understand the proposed business model and 3-year business plan, as this is in line with current expectations regarding interactions between the ORSA and business plan. The risks should be considered in a manner that reflects the undertaking's risk profile and takes into account the material significance of the respective asset class.
- The consultation paper notes that local supervisors should consider whether to assess the PE firm's investment committee or Board minutes regarding any acquisition. Whilst prospective shareholders may wish to proactively share perspectives with local supervisors, it is unclear how these are within the regulatory perimeter of the insurance supervisor. In particular, supervisory assessment would typically focus on the information provided to, and decisions taken by, the AMSB of the regulated undertaking, rather than on internal deliberations of non-regulated entities such as a PE investment committee.

Q5. Do you have comments on Section 5 "Maintaining sound and effective system of governance"?

- In point 5.6, EIOPA indicates that supervisory authorities should pay special attention to, and assess the appropriateness of, affirmative votes within the AMSB of the (re-)insurance undertaking and special shareholder rights, such as the capacity to appoint executive board members or to veto significant changes (e.g. capital distribution, specific internal policies, or the risk appetite framework).
- From Insurance Europe's perspective, it is not justified that private equity majority shareholders are treated differently from other majority shareholders of companies which also hold and exercise such special rights. These governance arrangements are common in many corporate structures and are not specific to private equity investors. Moreover, in many cases, these rights are explicitly granted to majority shareholders under company law. **Therefore, supervisory attention should focus on the actual risks arising from the exercise of these rights, rather than on the nature of the majority shareholder itself.**

Q6. Do you have comments on Section 6 "Prudential aspects"?

- Yes
- In 6.3, EIOPA drafts the following: "*The complexity in determining the Solvency II market-consistent valuation of these assets, whether the (re-)insurance undertaking has sufficiently knowledgeable staff to understand the models used and their limits, **to carry out independent valuation** notably when the valuation process is outsourced, and to implement proper governance requirements including the oversight of the AMSB*"
- The industry proposes to reinstate the original Governance Guidelines, where EIOPA described **independent review and verification**.
 - This distinction is important. Where valuation activities are outsourced, undertakings typically rely on external fund managers or asset managers precisely because of the specialised expertise, methodologies and detailed information required to value these assets.

- Requiring undertakings to perform an independent valuation in such cases risks blurring the respective roles of the undertaking and the external service provider. In the industry's view, the framework set out in the Governance Guidelines is sufficient and more consistent with the purpose of outsourcing valuation activities. Where particular structural features materially affect the risk profile of an undertaking, supervisors may consider these elements within the normal prudential review process. Such assessment should remain evidence-based, proportionate and neutral as to ownership type. Any consideration beyond that should, however, remain firmly anchored in a risk-based approach and avoid creating assumptions of elevated risk solely on e.g. the basis of ownership form. With respect to reinsurance, the industry would further note that the use of reinsurance is again independent of the ownership structure and may be deployed for reasons outside of managing the capital position of the business.
- Furthermore, the draft suggests that balance sheet enhancements are an inherent feature of the PE modus operandi, referring in particular to elements such as asset allocation, derivatives, reinsurance and assumptions underlying technical provisions. In this context, it should be noted that the existing Solvency II framework already requires a comprehensive forward-looking assessment of such aspects. In particular, the ORSA includes detailed projections of capital requirements and own funds, as well as their evolution under different scenarios, thereby ensuring transparency around key drivers such as asset allocation, expenses and management actions.
- In addition, Guideline 37 on the system of governance requires undertakings to establish a medium-term capital management plan, monitored by the AMSB. This plan also incorporates the outcome of ORSA projections, planned changes to own funds, and the impact of capital management actions (including issuance, redemption and distribution policies). In total, these requirements already provide a structured framework to assess and monitor changes to the balance sheet and underlying assumptions over time and thus provide safeguards against short-term balance sheet enhancements.

Q7. *Do you have comments on Section 7 "High leverage and capital enhancements"?*

- Yes
- The draft suggests that, where debt is held at the level of a non-EEA holding company and its repayment relies on revenues from the insurer, supervisory authorities should consider calculating a group Solvency Capital Requirement at the level of the ultimate non-EEA parent. While Solvency II provides for such an extension, this is typically applied in cases where the third-country regime is not deemed equivalent to the Solvency II framework. Paragraph 7.3 does not appear to include this qualification, and it may therefore be helpful to clarify this aspect. Without such clarification, the approach could result in a broader application of group SCR requirements, potentially creating wider implications for other ownership structures as well as additional cost and operational burden.