Position Paper

Comments on the Capital Markets Union High Level Forum final report

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Insurance Europe answers to the multiple-choice questions are highlighted in grey.

Recommendation 1: An EU Single Access Point

Do you agree that recommendation 1 is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- ***Very important***
- *Don't know/no opinion/not relevant*

If you disagree with all or part of recommendation 1, how would you amend it? [Max. 2000 characters]

The insurance industry supports the establishment of an EU-wide digital access platform for companies' public non-financial information.

Non-financial data is particularly relevant when ambitious and fast-paced policy actions rely on their availability, as it is the case for sustainable finance. Developments in this area have highlighted issues with the availability and reliability of ESG data for investors. In this respect, the HLF recommendation is welcome as it recognises the increasing importance for them to have access to non-financial information, particularly with respect to recent regulatory developments in the context of the Non-Financial Information Directive (NFRD), the Sustainable Finance Disclosures Regulation (SFDR) and the Taxonomy regulation. With respect to the latter, the proposed solution could be the right tool to build an EU register for Environmental, Social and Governance (ESG) data. In this respect, Insurance Europe calls for a creation of a centralised electronic register for ESG data in the EU. Robust, comparable and reliable ESG data is key to identify and assess sustainability risks in insurer's activities and is necessary to enable investors to steer their portfolios towards sustainability objectives, in line with the ambitions of the Paris Agreement and of the European Green Deal.

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Unfortunately, the availability of reliable public ESG data is currently limited. A centralised electronic EU ESG data register, in line with ESG requirements under the NFRD, the Taxonomy regulation and the SFDR, will help to achieve better comparability, increased transparency, lower barriers and costs, as well as help data preparers by eliminating multiple different requests for information. All this information should be included in stage 1.

In any case, excessive reporting obligations should be avoided. From a technical point of view, formats and processes should only mean reasonable effort. Proportionality aspects should be taken into consideration.

Recommendation 2: European Long-term Investment Funds (ELTIFs)

Do you agree that recommendation 2 is important?

- *Not important at all*
- *Rather important*
- ***Neutral***
- *Very important*
- *Don't know/no opinion/not relevant*

If you disagree with all or part of recommendation 2, how would you amend it? [Max. 2000 characters]

The insurance industry needs access to a wide range of assets that provide attractive returns and portfolio diversification, to the benefit of its policyholders. Therefore, the industry would appreciate improvements in the ELFIF framework to make these investments more attractive for institutional investors. Specifically, the industry encourages a refinement of the framework to soften existing investment restrictions and provide more flexibility especially with respect to investor-protection rules.

Due to the fact that the ELTIF legal framework was designed for a wide range of investors, ELTIFs offer institutional investors less flexibility and their design is less prone to meet individual investment needs than alternative investment funds. Therefore, the industry supports the proposed approach to reduce barriers in the ELTIFs legal framework, as well as a way to widen the retail investor base in line with the objectives of the CMU.

Where ELTIFs target long-term capital towards European public good such as infrastructure or social projects, they can create a stable source of long-term financing for infrastructure projects (eg sustainable energy, transport, social infrastructure), as well as for unlisted companies, and listed small and midsize enterprises (SMEs). In addition, depending on their asset allocation ELTIFs could represent a valuable investment and diversification opportunity, while contributing to the EU's sustainable and inclusive growth.

Recommendation 3: Encouraging insurers to provide more financing for capital markets

Recommendation 3a

Do you agree that recommendation 3a is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- ***Very important***
- *Don't know/no opinion/not relevant*

Recommendation 3b

Do you agree that recommendation 3b is important?

- *Not important at all*
- ***Rather important***
- *Neutral*
- *Very important*
- *Don't know/no opinion/not relevant*

Recommendation 3c
Do you agree that recommendation 3c is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- ***Very important***
- *Don't know/no opinion/not relevant*

If you disagree with all or part of recommendation 3, how would you amend it? [Max. 2000 characters]

Insurance Europe welcomes recommendation 3 and the recognition that to encourage investment, particularly in midcaps and SMEs, improvements to Solvency II (SII) eg improving equity and debt capital calibrations, are needed to ensure a better reflection of insurers' long-term business model.

SII is a risk-based regime that is strongly supported by the industry, but it currently creates unnecessary constraints to the provision of long-term products and investments. The review provides an opportunity to make focused improvements that would help insurers to continue playing a key role in supporting Europe's investment needs, in line with the CMU objectives.

- The criteria of the new long-term equity investment should be reviewed to remove unnecessary barriers to investing in equities and support increased equity allocations within portfolios.
- Improvements to the Volatility Adjustment (VA) are needed in order to better mitigate artificial volatility and to reflect the returns insurers can and do earn above the risk free rate.
- A dynamic VA mechanism should be included in the standard formula to align debt capital charges with the true risks that insurers face when holding corporate bonds over the long term.
- Enhancements to the Risk Margin (RM) and VA are needed to further increase insurers' investment capacity. As highlighted by the HLF, the RM reduces available capital for the industry by 189bn EUR.

The SII review should also draw lessons from the COVID-19 crisis, which has highlighted the need to address the artificial volatility SII creates. This is important both for insurers' stability in future crises and to allow insurers to maintain their key role in the economy.

A key element which already efficiently reduces procyclicality is extrapolation of risk-free rates. This is mentioned in the justification and should be part of the recommendations. Maintaining the existing extrapolation method and parameters and improvements to the VA and RM can reduce undue volatility and increase insurers risk capacity.

Insurance Europe welcomes the recommendation on pursuing discussions at the IASB to address flaws in the accounting treatment of insurers, to ensure that their long-term investment horizon is better reflected. This issue was highlighted in EFRAG's advice to the EC in January 2020.

Recommendation 4: Market-making and re-equitisation of the market

Recommendation 4a: Market-making
Do you agree that recommendation 4a is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 4b: Re-equitisation of the market
Do you agree that recommendation 4b is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 5: Scaling up the European securitisation market

Recommendation 5a: Unlocking the Significant Risk Transfer Assessment process

Do you agree that recommendation 5a is important?

- *Not important at all*
- *Rather important*
- ***Neutral***
- *Very important*
- *Don't know/no opinion/not relevant*

Recommendation 5b: Recalibrating capital charges applied to senior tranches, in line with their risk profile, under CRR2

Do you agree that recommendation 5b is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 5c: Recalibrating capital treatment for securitisation tranches under Solvency II

Do you agree that recommendation 5c is important?

- *Not important at all*
- ***Rather important***
- *Neutral*
- *Very important*
- *Don't know/no opinion/not relevant*

The proposals on how to make the STS securitisation framework work are welcome, especially improvements in the SCR within Solvency II. However, the insurance sector suggests that, before reviewing the current securitisation framework, a careful assessment of the impact of previous changes made is performed. While some improvements have already been achieved in the Solvency II framework, the calibration of Solvency Capital Requirements (SCR) of senior tranches may benefit from a revision to align their credit spread shocks with those for bonds and loans for all credit rating levels. Back in 2017-2018, when the Commission reviewed the calibrations for STS securitisations, in industry noted that a better treatment for junior tranches was needed.

The industry already highlighted that:

- the differences in capital requirements between senior and non-senior tranches of a securitisation remain high – eg a senior 5-year AA STS securitisation has now capital charge of 6%, while the junior tranche with same AA rating has it at 17%.
- non-STS securitisations remain significantly penalised, without this being justified by historical performance data.
- there is inconsistency in treatment between a whole mortgage loans pool versus RMBS, the latter being heavily penalised in terms of capital.
- the scope of allowing a risk factor of 0%, which is currently limited to exposures to the European Investment Fund and the European Investment Bank, should be expanded to all types of government and RGLAs guarantees.

Recommendation 5d: Reducing the costs of SME financing

Do you agree that recommendation 5d is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 5e: Applying equivalent treatment to cash and synthetic securitisations of all asset classes, and including their STS execution

Do you agree that recommendation 5e is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 5f: Upgrading eligibility of senior STS and non-STS tranches in the LCR ratio

Do you agree that recommendation 5f is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 5g: Differentiating between disclosure and due diligence requirements for public and private securitisations

Do you agree that recommendation 5g is important?

- *Not important at all*
- ***Rather important***
- *Neutral*
- *Very important*
- *Don't know/no opinion/not relevant*

Recommendation 6: Improving the public markets ecosystem

Recommendation 6a: Definition for Small and Medium Capitalisation Companies (SMCs)

Do you agree that recommendation 6a is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 6b: IPO transitional periods

Do you agree that recommendation 6b is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 6c: Dual-class shares

Do you agree that recommendation 6c is important?

- *Not important at all*
- *Rather important*
- *Neutral*

- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 6d: Minimum free float for SMEs

Do you agree that recommendation 6d is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 6e: SME index and regional index classification

Do you agree that recommendation 6e is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 6f: Creation of a pan-EU Public-Private IPO Fund backed by the EU

Do you agree that recommendation 6f is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 6g: Alleviations to the Market Abuse Regulation

Do you agree that recommendation 6g is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 6h: Alleviations to the Prospectus Regulation

Do you agree that recommendation 6h is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 6g: Alleviations to the Market Abuse Regulation

Do you agree that recommendation 6g is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 6i: Alleviations to IFRS and ESEF

Do you agree that recommendation 6i is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 6j: Exempt research in SMEs from unbundling rule in MiFID II *Do you agree that recommendation 6j is important?* • *Not important at all* • *Rather important* • *Neutral* • *Very important* • ***Don't know/no opinion/not relevant***

Recommendation 6k: Tick size regime *Do you agree that recommendation 6k is important?* • *Not important at all* • *Rather important* • *Neutral* • *Very important* • ***Don't know/no opinion/not relevant***

Recommendation 6l: Review the framework for an efficient stock loan market for SMEs *Do you agree that recommendation 6l is important?* • *Not important at all* • *Rather important* • *Neutral* • *Very important* • ***Don't know/no opinion/not relevant***

Recommendation 6m: Create an SME Market Marker status subject to alleviated prudential requirements *Do you agree that recommendation 6m is important?* • *Not important at all* • *Rather important* • *Neutral* • *Very important* • ***Don't know/no opinion/not relevant***

Recommendation 6n: Encourage interconnection of smaller cap markets and supporting unimpeded set-up of branches *Do you agree that recommendation 6n is important?* • *Not important at all* • *Rather important* • *Neutral* • *Very important* • ***Don't know/no opinion/not relevant***

Recommendation 7: Crypto/digital assets and tokenisation

Do you agree that recommendation 7 is important? • *Not important at all* • ***Rather important*** • *Neutral* • *Very important* • *Don't know/no opinion/not relevant*

Recommendation 8: Central Securities Depositories

Do you agree that recommendation 8 is important? • *Not important at all* • *Rather important*

- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 9: Shareholder identification, exercise of voting rights and corporate actions

Recommendation 9a
Do you agree that recommendation 9a is important?
- *Not important at all*
- *Rather important*
- ***Neutral***
- *Very important*
- *Don't know/no opinion/not relevant*

Recommendation 9b
Do you agree that recommendation 9b is important?
- *Not important at all*
- *Rather important*
- ***Neutral***
- *Very important*
- *Don't know/no opinion/not relevant*

Recommendation 9c
Do you agree that recommendation 9c is important?
- *Not important at all*
- ***Rather important***
- *Neutral*
- *Very important*
- *Don't know/no opinion/not relevant*

Recommendation 10: Cloud

Recommendation 10a
Do you agree that recommendation 10a is important?
- *Not important at all*
- *Rather important*
- *Neutral*
- ***Very important***
- *Don't know/no opinion/not relevant*

Recommendation 10b
Do you agree that recommendation 10b is important?
- *Not important at all*
- ***Rather important***
- *Neutral*
- *Very important*
- *Don't know/no opinion/not relevant*

Recommendation 10c
Do you agree that recommendation 10c is important?
- *Not important at all*
- *Rather important*
- *Neutral*
- ***Very important***

- *Don't know/no opinion/not relevant*

If you disagree with all or part of recommendation 10, how would you amend it? [Max. 2000 characters]

Insurance Europe welcomes in particular the approach to encourage and facilitate the development of standard contractual clauses (SCCs) for cloud outsourcing by financial institutions. The development of such model clauses would allow financial institutions to better reflect their sectoral regulatory constraints, eg the Solvency II framework for insurance, in their contractual agreements with cloud service providers. It would also allow for a more consistent approach to such agreements at EU level.

It should be stressed that any SCCs developed are intended to apply to outsourcing to cloud service providers, due to the specific nature of such agreements, and are not meant to be applied more broadly to all cases of outsourcing.

Insurers have reported difficulties concerning the concentration of cloud service providers, which results in high levels of market power and an imbalance in the negotiating power between the parties. This becomes a particular challenge in the case of SMEs. The concentration of market power among a few large cloud providers also contributes to the limited possibility to switch providers and standard terms and conditions that are offered on a take-it-or-leave-it basis.

The development of SCCs would therefore be important to help avoid this potential imbalance of the negotiating power between financial institutions and cloud service providers. Areas where this could be particularly useful include sub-outsourcing, access and audit rights, security of data and termination rights / continuity arrangements.

The possibility to allow greater reliance on independent assurance by third-party certification bodies, would also help facilitate the use of innovative cloud solutions. Current auditing requirements (on-site inspections) might hinder SMEs from using cloud technologies. Therefore, it should be sufficient for the cloud provider to be certified to help cloud users assess which provider to choose.

Insurance Europe supports the direct supervision of cloud service providers as part of a critical infrastructure, instead of adding further industry-specific requirements.
The Commission should also consider how to help facilitate the development of European cloud service providers to enhance Europe's digital sovereignty and help contribute to improving the functioning and constitution of the market for cloud services.

Recommendation 11: Pensions

Recommendation 11a: Pension dashboards for Member States

Do you agree that recommendation 11a is important?

- *Not important at all*
- ***Rather important***
- *Neutral*
- *Very important*
- *Don't know/no opinion/not relevant*

Recommendation 11b

Do you agree that recommendation 11b is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- ***Very important***
- *Don't know/no opinion/not relevant*

Recommendation 11c

Do you agree that recommendation 11c is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- ***Very important***
- *Don't know/no opinion/not relevant*

If you disagree with all or part of recommendation 11, how would you amend it? [Max. 2000 characters]

Insurance Europe welcomes the HLF report's focus on pensions. Multi-pillar pension systems are widely seen as the most effective way to ensure the sustainability and adequacy of retirement provision. As major providers of a wide variety of occupational and personal pensions, insurers are key players.

Member states should encourage participation in supplementary occupational and personal pension schemes. The EU has a role to play, keeping in mind its limited remit. EU actions should not disrupt well-functioning pension systems:

- Member states should stimulate the uptake of additional pension savings. Auto-enrolment has proven effective to encourage participation in occupational schemes. While supporting in principle this recommendation, we believe for automatic enrolment to be successful, it should first and foremost consider national circumstances. Plus, the absence of mandatory occupational pension schemes does not mean that the system is inadequate. **Therefore, EU legislation is not the most appropriate tool to introduce automatic enrolment at national level.**

- Member states should inform citizens about their expected retirement benefits, so as to raise awareness and encourage additional savings. Digital solutions, such as tracking services and dashboards, are useful tools. However, raising awareness and transparency about public pension entitlements are the remit of public authorities. **Financing from the industry would not be appropriate, most of all considering the cost of legal compliance and reporting (see below).**

- Any additional reporting at EU level should be strictly avoided. Pension products and their providers are already subject to a broad range of requirements at European and national levels covering different products, providers and activities. Adding another layer risks creating information overload, duplication and burden without necessarily increasing overall volume of savings. Introducing standardized EU reporting would also fail at embracing the diversity across Europe as pensions are defined along national lines. **Therefore, we strongly recommend that any new initiative in the field of pension transparency relies on existing requirements.**

Recommendation 12: Financial literacy/education and investment culture

Recommendation 12a: Recognition of financial knowledge and skills as a priority

Do you agree that recommendation 12a is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- ***Very important***
- *Don't know/no opinion/not relevant*

Recommendation 12b

Recommendation 12b(i): EU competence framework on financial competence

Do you agree that recommendation 12b(i) is important?

- *Not important at all*
- ***Rather important***

- *Neutral*
- *Very important*
- *Don’t know/no opinion/not relevant*

Recommendation 12b(ii): Working groups with Member States

Do you agree that recommendation 12b(ii) is important?

- *Not important at all*
- ***Rather important***
- *Neutral*
- *Very important*
- *Don’t know/no opinion/not relevant*

Recommendation 12b(iii): Indicator on financial education

Do you agree that recommendation 12b(iii) is important?

- *Not important at all*
- ***Rather important***
- *Neutral*
- *Very important*
- *Don’t know/no opinion/not relevant*

Recommendation 12b(iv): EU-coordinated approach for Member States to set up tests

Do you agree that recommendation 12b(iv) is important?

- *Not important at all*
- ***Rather important***
- *Neutral*
- *Very important*

Don’t know/no opinion/not relevant

Recommendation 12c: Erasmus+ or other EU funding programmes

Do you agree that recommendation 12c is important?

- *Not important at all*
- ***Rather important***
- *Neutral*
- *Very important*
- *Don’t know/no opinion/not relevant*

Recommendation 12d

Do you agree that recommendation 12d is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- ***Very important***
- *Don’t know/no opinion/not relevant*

Recommendation 12e: Financial guidance

Do you agree that recommendation 12e is important?

- *Not important at all*
- ***Rather important***
- *Neutral*
- *Very important*
- *Don’t know/no opinion/not relevant*

Recommendation 12f: Collective redress

Do you agree that recommendation 12f is important?

- *Not important at all*
- *Rather important*
- ***Neutral***
- *Very important*
- *Don’t know/no opinion/not relevant*

Recommendation 12g: Employee share ownership (ESO)

Do you agree that recommendation 12g is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

If you disagree with all or part of recommendation 12, how would you amend it? [Max. 2000 characters]

The recognition of the importance of financial literacy and the recommendations included in the HLF report are welcomed. Financial education has a vital role to play in ensuring that European citizens are equipped with the knowledge, confidence and skills necessary not only to improve their understanding of financial products and concepts, but also to make sound financial decisions that meet their needs and therefore increase their financial well-being. As a result, they are better prepared to engage in economic activity, which in turn helps to drive growth in the European and global economy.

Risk awareness is a crucial element in financial education, particularly from an insurance viewpoint. Many individuals have a low level of awareness of the risks they face and lack the requisite knowledge of insurance products and issues. Financial education raises awareness and allows citizens to make appropriate choices when considering, for example, how to ensure an adequate level of insurance cover, or how to best make provision for retirement. Financial and risk awareness provides individuals with a better understanding of the major features of insurance products. In so doing, it expands their scope of choice and allows them to make informed decisions when selecting the products that best meet their expectations and needs.

It is also positive to see the recognition of financial knowledge and skills as a priority, as well as ways to further encourage member states to support financial education. For example, it is a welcome step to explore how sectorial legislation in financial services might be adapted, building on the principle enshrined in Article 6 of the Mortgage Credit Directive, with a view to requiring Member States to promote measures to support financial education at national level.

Recommendation 13: Distribution, advice and disclosure

Recommendation 13a: Inducements

Do you agree that recommendation 13a is important?

- ***Not important at all***
- *Rather important*
- *Neutral*
- *Very important*
- *Don't know/no opinion/not relevant*

Recommendation 13b: Qualification of advisors

Do you agree that recommendation 13b is important?

- ***Not important at all***
- *Rather important*
- *Neutral*
- *Very important*
- *Don't know/no opinion/not relevant*

Recommendation 13c: Non-professional qualified investor category

Do you agree that recommendation 13c is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 13d: Disclosure

Do you agree that recommendation 13d is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- ***Very important***
- *Don't know/no opinion/not relevant*

Recommendation 13e: Investment product databases and comparison tools

Do you agree that recommendation 13e is important?

- ***Not important at all***
- *Rather important*
- *Neutral*
- *Very important*
- *Don't know/no opinion/not relevant*

If you disagree with all or part of recommendation 13, how would you amend it? [Max. 2000 characters]

Recommendation 13a does not recognize the diversity of national insurance markets. Specifically:

- Distribution systems vary significantly between Member States. The minimum harmonisation approach taken in IDD allows these to be respected.
- The structure of the distribution system is completely different between insurance and investment products. In many markets IBIPs are sold predominantly by smaller advisors (varying from one-man businesses to a few hundred employees).
- Blanket bans on inducements are not universally accepted to be beneficial to consumers. While in some markets bans have been reported to work effectively, in other markets they could in fact cause consumer detriment. This is why there is no general ban under the IDD.

The report also fails to note the significant improvements in consumer protection brought about by the IDD:

- The IDD 'demands and needs' test is unique to the insurance sector and stronger than the equivalent MiFID II execution-only regime. The demands and needs test applies on top of the suitability and appropriateness tests common to both IDD and MiIFD.
- The stringent rules on cross selling under IDD, requiring that ancillary insurance is offered to customers separately, are appropriate for insurance products and are more expansive than MiFID.
- Product oversight and governance rules under IDD require ongoing monitoring and redevelopment of products to ensure they continue to meet customers' needs. This has a far bigger impact on the value insurers provide to their customers than an inducement ban at the point of sale.

The recommendation in 13b regarding certificates of completion of professional training or development and appropriate knowledge and ability to access the profession are not necessary. Meeting the requirements of Art.10 IDD to verify the knowledge, ability and professional training of employees or tied agents is sufficient.

The acknowledgement in 13d of the deficiencies with the current disclosure regime for IBIPs and the failings of the PRIIPs Regulation in particular, are very welcome. Any recommendation on disclosures must take into account the specific characteristics of IBIPs and the specific nature of their distribution channels.

Financial products are too different from each other for the comparison between MiFID products and IBIPs to be relevant. Even within the insurance sector, comparison is not always pertinent as the products, their tax treatment and their legal environment differ.

Recommendation 14: Open finance

Recommendation 14a

Do you agree that recommendation 14a is important?

- *Not important at all*
- ***Rather important***
- *Neutral*
- *Very important*
- *Don't know/no opinion/not relevant*

Recommendation 14b

Do you agree that recommendation 14b is important?

- *Not important at all*
- ***Rather important***
- *Neutral*
- *Very important*
- *Don't know/no opinion/not relevant*

If you disagree with all or part of recommendation 14, how would you amend it? [Max. 2000 characters]

Consent-based data sharing could be beneficial and create added value for consumers in the form of new and innovative digital financial services. The focus, however, should always be on the consumer's willingness to share his or her data, and ensuring that he or she retains full control over what data is shared and with whom. The purpose of the data sharing should also be clear. Consent should be provided in a free and informed manner and an appropriate mechanism should exist that allows the consumer to revoke consent at any time.

Insurance Europe supports an approach to open finance that ensures a true level playing field of data sharing between the different actors. An open finance framework should not be solely focused on the financial sector, but broadly on all sectors of society.

Data sharing should be based on voluntary agreements between different actors or in the framework of data partnerships. The Commission should therefore establish a framework for data sharing that enables all parties to benefit from data sharing. Several weaknesses and challenges have been observed in the revised Payment Services Directive, and therefore any new initiative in the area of data sharing should not be based on the PSD2 framework as such.

Regulation and supervision should be activity-based (ie "same activities, same rules") to ensure that customers are effectively and equally protected both when they purchase their insurance products from established insurers and from new market entrants, whatever their business model. This means that the comprehensive EU consumer protection rules applicable to insurance activities and distribution, such as the Solvency II Directive, the Insurance Distribution Directive, the PRIIPs Regulation and the General Data Protection Regulation, as well as all their respective Level 2 and 3 measures, should apply equally to established insurers and new market entrants, where they carry out the same activities.

The crucial issue is to ensure that customers enjoy the same level of protection, regardless of whether they are served by incumbent providers or new entrants to the market, whether they be small start-ups or established BigTech companies. All elements of the insurance value chain are sufficiently regulated and serve the regulatory objective of policyholder protection. New entrants to the insurance market should therefore be brought within insurance regulation. The average customer does not differentiate between an incumbent provider or a new entrant. In both cases, the customer should be equally protected.

Recommendation 15: Withholding tax

Do you agree that recommendation 15 is important?

- *Not important at all*
- ***Rather important***
- *Neutral*
- *Very important*

- *Don't know/no opinion/not relevant*

If you disagree with all or part of recommendation 15, how would you amend it? [Max. 2000 characters]

Insurance Europe notes that provisions around withholding tax procedures, which are different between member states, are often quoted by insurers as a challenge to cross-border investment.

Recommendation 16: Insolvency

Recommendation 16a

Do you agree that recommendation 16a is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- ***Very important***
- *Don't know/no opinion/not relevant*

Recommendation 16b

Do you agree that recommendation 16b is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 16c

Do you agree that recommendation 16c is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- ***Very important***
- *Don't know/no opinion/not relevant*

If you disagree with all or part of recommendation 16, how would you amend it? [Max. 2000 characters]

Insurance Europe supports the recommendation to address the fragmentation of insolvency laws in Member States. Harmonization should not only target definitions, triggers and the ranking of claims, but also ensure a consistent and uniform legal process to enforce creditor claims in the European Union. A sound and predictable legal environment is essential to encourage investors to engage on a cross-border basis. However, it needs to be borne in mind that the insolvency proceedings of insurers are already harmonized to a considerable extent by the Solvency II Directive, particularly in terms of the required involvement of national supervisory authorities and the privileged treatment of policyholder claims.

Recommendation 17: Supervision

Recommendation 17a: ESMA

Do you agree that recommendation 17a is important?

- *Not important at all*
- *Rather important*
- *Neutral*
- *Very important*
- ***Don't know/no opinion/not relevant***

Recommendation 17b: EIOPA

Do you agree that recommendation 17b is important?

- ***Not important at all***
- *Rather important*
- *Neutral*
- *Very important*
- *Don't know/no opinion/not relevant*

If you disagree with all or part of recommendation 17, how would you amend it? [Max. 2000 characters]

An efficient, effective and credible system of financial supervision is needed at EU level. This is why amendments to the current regime must be based on sufficient evidence for the need for change. As the recent review of the ESAs regulations rejected a number of proposals regarding additional powers for EIOPA or regarding its governance framework, it does not seem appropriate that the Commission proposes the same measures recently rejected by the co-legislators. At the same time, some useful changes were made in the area of information-sharing between NCAs and EIOPA in certain areas such as cross-border business. Insurance Europe remains of the view that EIOPA does not need any further significant changes to its powers to fulfil its mandate.

Further, the proposed creation of an Executive Board has already been rejected by co-legislators in the context of the recent ESAs review. The Board of Supervisors (BoS) should remain the main decision-making body, so that the ultimate responsibility of supervision lays with NCAs and the principles of subsidiarity and proportionality are not undermined. The role of the NCAs should not be compromised; they are vital elements of the supervisory system due to their local expertise, direct contact with entities and, crucially, local accountability. Insurance Europe strongly believes that the current separation between indirect supervision by EIOPA and direct supervision by national authorities is an indispensable cornerstone of the European supervisory system.

EIOPA needs to further make use of its existing powers to enhance cooperation and supervisory convergence, before any changes to the governance or mandate are considered.

18. European consolidated tape (ECT)

Do you consider that the creation of a European Consolidated Tape is important to the Capital Markets Union?

N/A

Could you please explain your response on the importance of the ECT? [Max. 2000 characters]

N/A

Other recommendations

Are there any other recommendations that are not included in the HLF report that you think are crucial for the completion of the Capital Markets Union? [Max. 2000 characters]

Insurance Europe considers that these additional recommendations would further help achieve the CMU objectives:

- Assess whether CMU actions taken so far have had the intended impact with the objective to:
  - take further steps where the impact is found to have been limited
  - learn lessons to ensure the effectiveness of new initiatives

- **Define measurable, quantitative objectives for every piece of regulation and relate them to the EU top priorities** (eg aim to release €xxbn of capital in the review of Solvency II to support the objective of growth and long-term investment).
- **Increase availability of suitable sustainable assets (eg green infrastructure PPPs and green bonds) to support Europe's transition to a low-carbon economy**. Continue and foster initiatives such as the EFSI, advisory hubs and credit-enhancement mechanisms.
- **Make substantial growth in savings for retirement a major objective**
  - Finalise the PEPP in a way that is attractive to sellers and buyers by ensuring that:
    - PEPP information requirements — both the KID and benefit statement — provide savers with meaningful, easily understandable information
    - Items included within the cap on costs do not deter providers from offering PEPPs with protection features or certain providers from offering PEPPs at all
    - The criteria applied to the risk mitigation techniques protect individual savings but do not hinder innovation
- Ensure that EU regulations **create a level playing field** and **do not harm the global competitiveness of European business**.
- **Allow sufficient time for implementing new regulation** by creating separate timeframes for developing Level 2 & 3 measures and for industry implementation.
- **Preserve trust in the existing regulatory framework**. The Solvency II framework already contains measures to preserve capital levels, on a case-by-cases basis. Intervention from NSAs and EIOPA to impose additional measures for the whole sector deviates from the European risk-based rules, creates distrust and therefore undermines the ambition of a CMU.
- **Foster retail investments in capital markets** by preserving trust in and reliability of the financial sector. For example, dividends distribution represents an important element of the investment decision, especially for the insurance sector. It benefits millions of beneficiaries of pension funds[1] and represents an important additional, passive income for many retail investors.

[1] Up to one third of pensions funds' investments is allocated to other financial institutions such as the insurance sector (source: European Commission, DG FISMA: Study on the drivers of investments in equity by insurers and pension funds, December 2019, p. 165ff).