	Comments Template on Discussion Paper on the review of specific items in the Solvency II Delegated Regulation	Deadline 3 March 2017 23:59 CET
Name of Company:	Zurich Insurance Group	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
	Please follow the following instructions for filling in the template: ⇨ Do **not** change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇨ Leave the last column empty. ⇨ Please fill in your comment in the relevant row. If you have no comment on a paragraph or a cell, keep the row empty. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. **Please send the completed template, in Word Format, to CP-16-008@eiopa.europa.eu** **Our IT tool does not allow processing of any other formats.** The numbering of the questions refers to the discussion paper on the review of specific items in the Solvency II Delegated Regulation.	
Reference	**Comment**	
General Comment	Zurich Insurance Group would like to thank EIOPA for the possibility to express its views on the review of specific items of the Solvency II delegated regulation as part of the 2018 review of the Solvency II Standard Formula. As EIOPA is aware, Zurich Insurance Group is based in Switzerland and holds a number of insurance subsidiaries in the EU, which are subject to Solvency II. Zurich is supportive of this debate and committed to share its expertise in capital management and its experiences with the application of Solvency II so far to assist policy makers and regulators in the review process. Zurich has also contributed to the submissions to the consultation of industry	

| | associations, notably Insurance Europe and the CRO Forum, and would like to express its support to the views expressed there. As a consequence, we have not commented on all the questions of this consultation, but have aimed to highlight issues of particular importance or where we have specific experiences to share.
A first issue which we would like to highlight is the difference between the banking and insurance regulatory regimes with regard to own funds. Although we believe there are fundamental differences between insurance and banking business models that justify some discrepancies in own funds eligibility criteria, there are also unjustified differences which should be removed. For instance as hybrid debt is a legitimate and necessary source of financing, there is competitive risk because restrictions imposed on insurers and not on banks, make the sector unappealing to investors. It holds true in particular for the ban of extraordinary issuer call rights, in the first five years post issuance, that does not apply to banks.
A second issue, which is of major importance, concerns the loss absorbing capacity of deferred taxes. We strongly believe that the calculation of the loss absorbing capacity needs to reflect the circumstances of the entity concerned and the tax rules of the territories in which that entity operates. This reflects the normal on-going management of an entity's tax positon. We do not believe that this would introduce unnecessary subjectivity in the calculation and do not consider that additional regulation is required. We find the proposed simplifications inappropriate as they do not take into account the reality of a strong, diverse and resilient European insurance industry that has demonstrated its ability to withstand and adapt to substantial stresses on multiple occasions.
A third issue which we would like to mention here is risk mitigation. We believe that the Solvency II framework should support all risk-mitigation techniques, in any type or form, so that no false incentives are created. For instance, we note that products such as Adverse Development Cover and Finite Reinsurance would meet all qualitative requirements of a risk-mitigation technique, as set out in the Delegated Act, but are currently not recognized under Solvency II. In addition we would welcome the introduction of a more accurate model for non-proportional reinsurance that takes into account the caracteristics of the specific contracts. | |

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Q1.1		
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Q1.5	For non-life business, calculations are done per risk groups. Applying the discontinuance of 40% on a policy by policy level is therefore extremely challenging.	
Q1.6	As mentioned above, calculations for non-life business are done per risk groups. We propose that the delegated act considers the way non-life risk are monitored in practice :a shock (with a level that should be assessed) that would be applied at the aggregate level of the policies included in the best estimate of premiums. The following rewording of article 118(a) of the Delegated act would address this: “the discontinuance of [40% to be reviewed] of insurance policies included in the non-life premium provision”.	
Q1.7	We find the shock for mass lapse risk unrealistically high. Historical evidence of actual lapses contradicts the currently assumed high discontinuance rates of 70% (resp. 40% for SLT health lapse).	
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Q1.19		
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Q1.24		
Q1.25		
Q1.26	We would generally welcome the possibility to implement simplified calculations, while at the same time we would encourage to lower overall documentation requirements related to simplifications.	
Q2.1	We believe that it would be useful to explore the possibility to include information implied by the market, where sufficient information is available. However, since such information may not always be available and a thorough position by position assessment may not always be easy to implement for all insurers, there is a risk that the comparability of the SCR results across the industry would be reduced.	
Q2.2	CQS could be based on information implied by the market, such as the spread level or on CDS/ spread average over some period of time. However, a degree of 'long-run' averaging needs to be applied to avoid artificial fluctuations in the assessment. In addition, consideration should be given to the methodology by which credit quality information is extracted from market prices: real-world default probability and recovery rates, which are the indicators of credit quality, need to be disentangled from other factors such as risk premia, liquidity and tax treatment, which are also embedded in credit spreads. Also, many CDS contracts trade only relatively infrequently, and with high bid-ask spreads, so any methodology needs to correctly adjust for these effects. Overall, we believe it should be carefully evaluated (a) if the alternative method would be sufficiently robust, (b) if all insurers would have the capability and resources to implement such a method, and (c) if comparability of results across the industry would be preserved.	

Q2.3		
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Q3.12		
Q4.1		
Q4.2	In addition to the comments already made by industry associations (Insurance Europe and the CRO Forum, more specifically), we would like to note that 1) financial agreements with non-rated counterparties are not allowed to be used as risk mitigation techniques (see article 214 (2 b)) although they actually provide some coverage. If there is an agreement between two companies, it should be allowed to use this as risk mitigation, even though the counterparty is non-rated. A possibility	

	would be to introduce a constraint of using such risk mitigation techniques. For example, there could be a defined deduction for this in the delegated acts analogous to the credit quality steps. 2) Regarding Article 209 of delegated acts, we would like to have more clearly stated that the time for replacement is not defined by the contractually agreed maximum of replacements but by the number of replacements which are done in reality. For example, there could be a calculation of an average value over the last 5 years like: average value = Number of replacements over the last 5 years divided by 5. If the result is greater than 4 the replacement occurred more often than allowed. Otherwise it could be used as risk mitigation techniques.	
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Q6.1		
Q7.1		
Q7.2	Yes. We believe that the grouping of zones would be an appropriate simplification for the calculation of the capital requirement for wind and earthquake risk. For flood and hail we believe that grouping would not be appropriate. Zone granularity should not only depend on similarity of the local hazard but also on the extent to which certain areas correlate (similarity in correlation).	
Q7.3		
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Q7.8	Yes. We believe that risk sensitivity should be improved by explicitly allowing for deductibles and limits. The SF input should be changed to Total Value of the insured assets and explicit treatment of limits and deductibles should be allowed (e.g. at risk zone level). The current parameterization of the SF is not sensitive enough to the differences in deductible levels between homeowners and industrial business, which can differ by several orders of magnitude.	
Q7.9		
Q7.10		
Q7.11	Both treaty types, insurance contracts and reinsurance treaties, will respond to any event losses, irrespective whether the events cluster or not. Reinsurance is typically bought on a pre-determined number of recoveries basis, on which event clustering does have implications (more reinstatements being needed for same level of protection).	
Q7.12		
Q7.13	For the purpose of the SF, windstorm clustering is already appropriately addressed by the two events in the specifications. Adding a third event does not help in reflecting the potential adverse impact of windstorm clustering any better as it is not clear, if clustering leads to a greater number of storms or to a higher conditional likelihood of a second large event, given a first (large) event has happened.	
Q8.1		
Q8.2		
Q8.3		
Q8.4	We find it a challenge to identify the "within a radius of 200 meter" exposure. This information is typically unavailable for insurers in this format and often requires significant manipulation of data. This creates a unneccesary burden for the insurer and also results in approximations which reduce the risk sensitivity of the calculation. A simplification would be to use an alternative, but more easily accessible, exposure measure. One approach could be to use the (re)insurer's largest single exposure or alternatively zones could be specified, not unlike with natural catastrophe but more granular, and the largest concentration of these zones determined.	

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Q8.11		
Q8.12		
Q9.1		
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Q9.5		
Q10.1	The Lee Carter model is a well-known model and we would consider it as a potential improvement to the current parameterization method, in particular with regard to the mortality shock. Alternative methods, for instance as proposed by Insurance Europe in its response, are also options worth exploring.	
Q10.2	We agree that the model should additionally account for parameter and model uncertainty. We do not have any specific recommendations other than recommending a historical analysis and expert judgment benchmarking to complement the output of the chosen model.	
Q10.3		
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Q11.1		
Q11.2	Standard parameters that could be considered to be replaced by parameters specific to the undertaking are: 1) Lapse risk 2) Mass lapse 3) Correlation parameters 4) Geographical diversification 5) Risk factors Q per peril and region in the Natural Catastrophe sub-module. While USPs can be solutions to some limitations of the standard formula, we would welcome a less onerous application process.	
Q11.3		
Q11.4	The data criteria should not be counterproductive by setting much too high barriers and thereby limiting or discouraging the use of USPs. Alternatively, rather than modifying the data criteria, a simplification of the USP application process would be welcomed. For instance, a sufficient condition to implement the USPs could be to produce a confirmation from an internal validation team or, more rigorously, from an internal or external audit review that Article 219 is met. This would be an alternative to the upfront regulatory review.	
Q11.5	This is an issue of major concern and we would like to support alternative proposals made by Insurance Europe and the CRO Forum in this context.	
Q11.6		
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Q12.1		
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Q12.3		

Q12.4		
Q12.5	We would support simplifications to the counterparty default risk submodule but care should be taken to avoid inappropriate risk management incentives. We would agree with the suggestion made by Insurance Europe to remove the delta SCR aspect of the calculation. Given the low overall impact of the counterparty default risk sub-module on an undertaking's SCR this would save significant resource without materially affecting capital requirements.	
Q12.6		
Q12.7		
Q13.1		
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Q13.4		
Q13.5		
Q13.6		
Q14.1	We agree with the improvements suggested by Insurance Europe. We would like to add that Article 184 (2) (b) should be explicitly extended to internal loans to a group that is under a regime equivalent to Solvency II. Article 184 is part of the market risk concentrations sub-module and § 2 regulates exclusions to the calculation base, including in § (b) exclusion from concentration risk of internal loans within a Group, if a number of conditions are met. We note that §(b) (iv) lists the condition that the counterparty is established in the Union. To give a practical illustration, that would suggest that if Insurance Entity A, located in the EU, would have an internal loan with the head of the Group, located in Switzerland, this loan would be subject to concentration risk charge. If another Insurance Entity B, would have an internal loan with its head of the Group, located in the EU, the loan would not be subject to concentration risk charge. However, the Swiss Group is subject to an equivalent group supervision regime as the EU group in this example. We note that other articles, in the same and other risk modules, do take into account equivalent third country regimes, for instance article 180 §7, 186 §4 and 199 §6, i.e. this appears to be the only place	

	in the regulation where an equivalent regime is explicitly disadvantaged compared to the EU regime, whereas the discrepancy cannot be justified by differences in the underlying risks.	
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Q15.1		
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Q15.4		
Q16.1		
Q16.2		
Q16.3	We believe that it might not always be easy to apply the look through approach to investment-related undertakings and therefore the choice whether to apply the look through approach or not should be left at the discretion of the entity and a sufficient level of pragmatism and simplification should be allowed.	
Q16.4		
Q16.5		
Q16.6		

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Q16.7		
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Q17.16		
Q18.1		
Q18.2	We believe that further harmonization of the assumptions is neither possible nor necessary. The assumptions should be realistic and reasonable. Available market information and experiences from the past should be taken into account when assessing the return on assets. A general assumption that return on assets have to be calculated based on risk neutral assumptions is not in line with reality.	
Q18.3		
Q18.4		

Q18.5	We believe that in a going concern view, taxable income from new business, which is not yet reflected in the MVBS/stressed MVBS, must be considered because even after a shock new business and therefore taxable income will be generated..	
Q18.6	We believe the following elements should be considered: Going concern assumption, strategic plan estimates, projection horizon, shock per risk source and recovery patterns. To prove that the DTA is appropriate, it shouldbe sufficient to demonstrate proper management of new business planning.	
Q18.7		
Q18.8	There should not be an arbitrary time limit on the time horizon, which would not reflect reality. The time horizon must also take into account local tax regulations in the relevant jurisdiction.	
Q18.9	We would not support a default approach wherein LAC DT would be capped at the level of net DTL for all undertakings. Although this would constitute a conservative and simplified approach, we would generally consider it inappropriate because: - it does not comply with Solvency II and IFRS (Article 207 DA states that (…)The adjustment for the loss-absorbing capacity of deferred taxes shall be equal to the change in the value of deferred taxes of insurance and reinsurance undertakings that would result from an instantaneous loss (…)deferred taxes shall be valued in accordance with Article 15(…). In Article 15 a further reference is made to Article 9 entailing that deferred taxes are to be recognised in accordance with IFRS as adopted by the European Commission. In IAS 12.24 it is stated that (…) a deferred tax assets shall be recognised for all deductible temporary differences to the extent that it is probable that taxable profit will be available (…) (*emphasis added*).This probability assessment is also part of Article 15 and Article 207: (…) deferred tax assets are only to be recognised if the insurer is able to demonstrate that future profits will be available (…). So if and only if it is not probable that taxable profits will be available, the LAC DT can be limited to the amount of net DTL); - it is not in line with the idea of a going concern; and - the net DTL would not necessarily reflect the true future taxable income against which the shock loss can be offset but in fact may reflect DTAs that will reverse in the future without negatively impacting future taxable income.	

	As a consequence, we believe that regulation to limit the LAC DT to the amount of net DTL would only be appropriate if the net DTL reflects the future taxable profits of a run-off business.	
Q18.10		
Q18.11		
Q18.12		
Q18.13	We believe that recapitalization (after breaching the SCR or the MCR) could be relevant to support future earning capacity to support the LACDT, for instance through assumptions of excess earnings on assets (recapitalization will generate excess return). This would also prevent a need to take other measures, such as derisking, which would undermine the pull to par argument for the (larger part of the) spread shock. We would also support an approach which, when planning the profits after a SCR event, would take into account the fact that a longer period of SCR recovery might be allowed by the supervisor, in case of industry-wide events (see article 138 SII). To determine the SCR recovery period, we would envisage a blended approach which would take into account whether company-specific events or industry-wide events are driving the SCR. We would welcome a standardized approach to this assumption on the deemed recovery period to SCR for industry-wide events.	
Q18.14		
Q18.15	We do not promote a number of mandatory simplifications in the required tax modelling across the EEA. As the types of losses incurred will vary across firms and the fiscal regimes are country specific, an overly uniform approach could inevitably lead to unrealistic outcomes. The tax model and assumptions presented by individual firms should take into account such specificities and member state regulators should review if the proposed modelling fits for the individual firm, given its circumstances.	
Q18.16		
Q19.1		
Q19.2	We would like to support the suggestions made by the CRO Forum and Insurance Europe to ensure that the Risk Margin calculation is not pro-cyclical. Inparticular we would support a periodic review of the CoC rate taking into account changes in the	

	interest rate environment. Currently, we believe the Coc rate should be around 3%.	
Q19.3	As discussed above, the current low interest rate environment has clearly demonstrated that the current calculation of the Risk Margin is inappropriate, and has introduced excessive balance sheet volatility with respect to interest rates. We endorse the solutions proposed by the CRO Forum: - Derive a more appropriate (lower) cost of capital rate that recognises that insurance risks should be expected to have a low beta. - Take into account risk dependence over time by introducing time dependent scaling factor to the Cost-of-Capital calculation.	
Q19.4		
Q20.1	We are of the opinion that differences in banking and insurance regulation should not exist and should therefore be removed, a) wherever the underlying risks are the same; and b) wherever the capital attractiveness of one versus the other is artificially affected.	
Q20.2	a - The maturity requirements for tier 2 subordinated debt are more stringent under SII, as SII demands a 10 year period for eligibility to count as tier 2 capital while the banking regulation only demand 5 years. We cannot see a material reason for this requirement to be different for banks than for insurers. Therefore, we believe that it would benefit the level playing field within the financial services industry if this would be reduced to 5 years for insurers as well. b - When tier 2 debt instruments mature, local competent authorities currently have a veto right to stop the redemption of these instruments, which is a right that banking regulators do not have. We believe that this veto right is economically disadvantageous for insurers as it overrides contractual agreements between insurers and debt investors, making debt investment in insurance subordinated debt less attractive, therefore raising the cost of debt capital for insurers. In addition, we do not believe that there are systemic differences between banks and insurance companies which make this difference in regulation necessary. So removing this veto right would	

	benefit a level palying field. c - Under SII, insurers cannot redeem a tier 2 debt before its maturity unless it is replaced with the issuance a new Own Funds instrument. This is not the case for regulated banks. Banks can redeem debt instruments before maturity within the first 5 years after issuance under certain requirements. We believe that this rule in the SII framework can under specific circumstances be unduely onerous, i.e. where a regulated entity has a strong SII ratio so that a specific tier 2 debt instrument would not be needed anymore to fund the entity. Under the current rule, the entity could not redeem this unnecessary funding instrument without entering into new funding agreements which makes it impossible to reduce its funding cost down the level of funding that is really required. In these situations, this specific rule can lead to unnecessarily high funding costs for insurers which reduces their capital generation capability from earnings.	
Q20.3	a – We would suggest a change in regulation: Reduce the maturity requirement for tier 2 subordinated debt to 5 years. This change would allow insurers a more beneficial access to 5-10 years debt funding solutions and would contribute to a lower cost of capital in the industry which is beneficial for the viability of insurer's business model as it adds to the own funds generation out of earnings. This enables insurers to build up equity-based tier 1 own funds rather than spending this on the price for higher duration subordinated debt instruments. We believe that this would continuously ensure a higher quality of own funds. In addition, the duration of funding instruments needs to match the duration of the funded book of business and on this aspect, many insurers' books have a duration significantly below 10 years so that funding with a dutation below 10 years would better match their book and balance sheets. b - We would suggest a change of regulation: To waive the veto right for local competent authorities to block the redemption of tier 2 debt instruments when they mature. The veto right is economically disadvantageous for insurers as it overrides contractual agreements between insurance companies and their debt investors and therefore makes debt investments in insurance industry subordinated debt less attractive and raises cost of debt capital for insurers. Consequentially, it reduces	

	insurers' earnings generation and so reduces their ability to generate equity-based tier 1 own funds. c - We would suggest a change of regulation: To waive the requirement that early redemptions of tier 2 capital are only possible if replaced by the issuance of other own funds instruments. We believe that this rule in the SII framework can under specific circumstances be unduely onerous where a regulated entity has a strong SII ratio so that a specific tier 2 debt instrument would not be needed anymore to fund the entity. Under the current rule, the entity could not redeem this unnecessary funding instrument without entering into new funding agreements which makes it impossible to reduce their funding cost down the level of funding that is really required. In these situations, this rule can lead to unnecessarily high funding costs for insurers which reduces their capital generation capability from earnings.	
Q20.4		
Q20.5	We believe that the rules which insurers have to comply with in cases of SCR breaches allow for sufficient time in order not to depend on conversion elements in their debt funding agreements only. The risk-sensitivity of SII as well as the available time horizons to recover from SCR breaches enable access to sufficient other recovery solutions on the SCR side. On the Own Funds side, there are also sufficient other options available to recover the SII ratio apart from enforced conversion of debt instruments.	
Q20.6		
Q20.7	It would be desireable if insurers would have the same escape clause in case of tax or regulatory changes as well as for market making. Escape clauses for early redemption would help in all of these instances to protect insurers' earnings and so their tier 1 own funds generation capabilities from unforeseeable change. This would contribute to the industry’s ability to generate a higher quality of capital from own earnings.	
Q20.8	We think this difference can be material and is not justified by the differences between the banking and the insurance sector.	
Q20.9	We would recommend to allow for the same early redemption clauses as banks have available as part of their regulation.	

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Q21.1		
Q21.2	No	
Q21.3	No	
Q21.4		
Q21.5		
Q21.6	On a) and b) we believe that there is no binary answer such as "yes" or "no". Hoewever, we believe that any encumbrances on the freedom of contract would harm the respective market, making it less liquid and affect pricing. In the situation mentioned in the question, we believe that such encumbrances might well reduce insurers ability to fund their businesses with the optimal funding instrument and could therefore turn out to be economically disadvantegous for the industry.	
Q21.7	See the answer to question 21.6.	