<table>
<tr><td colspan="2">Comments Template on
Consultation Paper on EIOPA's first set of advice to the European Commission on specific items in the Solvency II Delegated Regulation</td><td>Deadline
31 August 2017
23:59 CET</td></tr>
<tr><td>Name of Company:</td><td colspan="2">Dutch Association of Insurers</td></tr>
<tr><td>Disclosure of comments:</td><td>Please indicate if your comments should be treated as confidential:</td><td>Public</td></tr>
<tr><td></td><td colspan="2">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-17-004@eiopa.europa.eu
Our IT tool does not allow processing of any other formats.

The numbering of the reference refers to the sections of the consultation paper on EIOPA's first set of advice to the European Commission on specific items in the Solvency II Delegated Regulation. Please indicate to which paragraph(s) your comment refers to.</td></tr>
<tr><td>Reference</td><td colspan="2">Comment</td></tr>
<tr><td>General Comment</td><td>The Dutch association welcomes the manner in which EIOPA has reached out since the submission of the reactions of the stakeholders (beginning of March). Especially asking for clarifications has increased the understanding of issues and comments provided.

In addition to <data call> comments</td><td></td></tr>
<tr><td>1</td><td></td><td></td></tr>
</table>

2.1		
2.2		
2.3	According to EIOPA the legislation is considered to be sufficient to limit the administrative burden for insurers. However the insurers have another view. These different perspectives suggest that individual supervisors acts differently than suggested by EIOPA. In this context it would be justified to provide some guidance for supervisors how to perform this assessment. In principle assessing the proportionality concept a qualitative analysis is the first step. Only if this is ambiguous or suggests otherwise a quantitative assessment is needed. Supervisors should act retrospectively as part of the supervisory review process. As only simplifications may be used which are listed in the Regulation, this is considered to be an exhaustive list. We would urge EIOPA / EC to allow the possibility to include new simplifications as they emerge in the future based on further development of methodologies and experiences.	
2.4		
2.4.1		
2.4.2		
2.4.3		
2.4.4		
3.1		
3.2		
3.3		
3.4	In general our opinion is the following: The current prudential regime is to a large extent reliant on **ratings**. Within Solvency II there are possibilities to use different methods for assessing the Credit Quality Step when no ratings is available. For example the Solvency II ratio. However when a rating is available this rating has	

	prevalence over the Solvency ratio. We have the opinion that if a Solvency II ratio or CRD ratio exits which can serve as alternative for a rating of an ECAI this should be used rather than the rating. This will reduce costs for insurers. An insurer should also be allowed to use any credit assessment of any ECAI regardless whether they are nominated by the insurer or not. This is also cost efficient.	
3.4.1		
3.4.2	In paragraph 132 EIOPA states that internal credit assessment should be incentivised. What does EIOPA imply? In paragraph 147 EIOPA states it will issue new guidance on ICA. What is the planning of this guidance and how will this be issued.	
3.4.3	We welcome the advice of EIOPA. However we feel this should not be considered to be a simplification (article 88) but as a general rule. It should be applicable to all insurers. Thus only if the instruments covered by this rule does not meet the criteria, it should be NR. EIOPA ask for input on using a threshold. Considering that only exposures are allowed which are « plain vanilla » and are eligible e.g. in line with paragraph 144 the threshold used should be 80%. This implies that if nominated ECAIs cover 80% of the total portfolio, the rule can be allowed. We do not agree with the total exemption of loans in this rule. Plain vanilla (rated) loans or loans with appropriate guarantees/collateral should not be exempted. We do not agree that the simplified calculations for credit ratings should not apply if the portfolio has a mechanism of profit participation. We suggest to delete the second bullet in 144	
4.1		
4.2		
4.3		

4.4		
4.4.1	We welcome the advice of EIOPA as mentioned in paragraph 168 and 169 with respect to recognising guarantee and extend this to mortgage loans and real estate.	
4.4.2	In paragraph 183 EIOPA states the willingness to align the list applied by the banking legislation and Solvency II legislation. In this exercise we would urge EIOPAS to engage the industry in this alignment. With respect to intermediate treatment we welcome the proposal made by EIOPA to use CQS 2 for eligible exposures not included on the list. In our opinion the advice provided by EIOPA in paragraph 201 is correct and will provide a good reflection of the risk profile for these partially guaranteed mortgage loans. However we feel that also for other central governments or RGLA partially guaranteed exposures, not necessarily only mortgage loans, the treatment would apply. For example, SME loans are co-finance by governments and other entities. In paragraph 202 EIOPA exempts the use of partially guarantees in the spread risk module based on the assumption that the spreads would cover for these guarantees. However for non-rated exposures this is not the case. In the regulation collateral values for non-rated debt are allowed and recognised, this should be extend for the partial guarantees issued by central governments or RGLA.	
4.4.3	218, 222 We welcome the advice of EIOPA in this paragraph related to the harmonization of the EBA RGLA list and ITS 2015/2011/EU. 219. 223. We welcome the advice of EIOPA in these paragraph to introduce a intermediate treatment. 224, 225 We welcome the advice of EIOPA in this paragraph. We would like to stress the importance of including both the guarantees from WEW and 'Gemeente garanties'.	

4.4.4	226 We welcome the advice of EIOPA in this paragraph. We would like to stress the importance of including both the guarantees from WEW and 'Gemeente garanties'.	
5.1		
5.2	EIOPA performs an analysis for longevity risk transfers but draws no conclusion or does not provide any advice.	
5.3		
5.4		
5.4.1		
5.4.2	The statement made in paragraph 301 is not justified. The strategy itself is not necessarily highly risky. For example if the dynamic strategy is to adjust the portfolio in order to minimise interest rate risk on the whole of the balance sheet. How is this considered to be highly risky? EIOPA introduces the requirement for non-traded instruments to have a minimum duration of one month. We question to introduction of a minimum duration. In any case we would like to extend paragraph 293 to also exposures centrally cleared by an eligible CCP.	
5.4.3		
6.1		
6.2		
6.3		
6.4	We would like the possibility to extend the look through towards the economic balance Sheet of the parent even if it is not considered to be the ultimate parent. This would align the views with accounting balance sheet and risk management purposes. Having a company balance sheet view provides for extensive administrative burdens as suddenly intragroup loans are recognised on the balance sheet of both entities which could differ in economic value.	
6.4.1		
6.4.2		
6.4.3	We agree with EIOPA's advice, but would like an extension towards applying the look through for	

	determining the economic balance sheet. We appreciate the thoughts on the look through approach. We do miss however the condition that the capital calculated using the look through approach should not exceed the investment value of the investment (provided no guarantees have been given on the servicing of the leverage). By this condition we avoid that highly leveraged funds will lead to excessive risk charges, exceeding the sum at risk.	
7.1		
7.2		
7.3		
7.4		
7.4.1		
7.4.2		
7.4.3		
7.4.4		
8.1	When assessing whether EIOPA should provide more advice on possible changes in the Delegated Regulation, EIOPA should explicitly make sure that the advice allows for all sources of taxable profit recognized in the CRO Report on DTA in SCR that is published in October 2016 and is aligned with the local fiscal legislation. As the tax regimes do differ significantly across Member States and also differ across the type of insurance business (LoB), requirements should not be too restrictive which could have a very uneconomical effect on the Solvency positions and required capital of distinct business lines. Maximum space should be allowed in the LAC DT calculation to apply local tax regulations. A serious substantiation of the assumptions is necessary, but no structural barriers to specific elements in the tax profit determination (e.g., limitation of the time horizon for future profits or	

	ignoring fiscal unities). This only leads to unjustified extra prudence. In assessing the LAC DT, EIOPA should still take into account that the LAC DT is determined in a going concern situation aligned with article 101 (2) of Directive 2009/138/EC. This is a fundamental starting point.	
8.2	The underlying causes of the LAC DT and their subsequent allocation towards the stressed balance sheet results in additional differences between the fiscal valuation and the economic valuation. This change in nDTA can be caused by temporary differences which will recycle back as long as the balance sheet exposure is maintained on the Economic Balance Sheet, actual losses due to effect of the underlying scenarios (for example defaults or lapses) and results which are mandatory recognised into the period in which they materialise. The various causes will require an appropriate different approach in the recoverability assessment based on the going concern presumption. Whether an insurer recognises all three causes depends on the actual fiscal legislation and treatment of changes in valuation, which differ per Member State.	
8.2.1		
8.2.2	Following the assessment of the LAC DT and the current restriction on tier 3 we see a very pro-cyclical impact of this restriction. Because the underlying scenarios cause a change in valuation on the stressed economic balance sheet, the DTA will mostly increase. Because tier 1 is impacted by the LAC DT scenario and the increase of the DTA is restricted in the eligible own funds, more Available Own Funds would not be eligible as part of the eligible own funds. In this sense the insurer needed to recapitalise will be required to take more recovery measures if a breach has occurred. As a big part of the change in nDTA can be attributed to temporary valuation differences, this effect is indeed procyclical. Based on the business model of insurers assets are aligned with the insurance liabilities, thus if the insurer is able to demonstrate that no forced sales are necessary, the temporary part of the nDTA should not be included in the determination of the tier 3 restriction. This would decrease the procyclical nature of the restriction in the context of calculation of the LACDT.	
8.2.3		
8.2.4		

8.3	In article 207 (1) the Regulation refers to an instantaneous loss amounting to the sum of the BSCR, LACTP and SCROR. In 207 (5) the regulation requires an allocation towards the stressed economic balance sheet via the risk (basically underlying scenarios). This would imply that the underlying scenarios will have an impact on the risk margin (underlying scenarios of underwriting risk and change in value of best estimate), risk free interest rate (underlying scenario of interest rate), Volatility Adjustment (underlying scenario of spread risk), etc. This is in contradiction to the article 207 (1). In the guidelines of EIOPA reference is made towards fiscal unity (guideline 9). However the statements made do not actually align with the concept of fiscal unity in the various Member States (esp. 1.28). For example if not losses are transferred, but actually profits are aggregated ensuring the non-payment or reduced payment of taxes within a fiscal unity. Normally a group is able to aggregate profits and losses from entities within the fiscal unity in order to optimise the tax payments. Due to the guidelines of EIOPA the concept of fiscal unity is not recognised which is contrary to the fiscal legislation and economic reality. It is an economic reality that tax groups (including the Dutch tax unity/entity) can, in principle, contribute to the value of deferred tax assets. Where a standalone entity cannot use this always, there may be one or more other entities within the tax group that can benefit from the tax losses of the insurance entities. If there is a legal enforceable agreement providing compensation to the insurer for using his right to loss compensation, then a real value component should be recognized in realistic expectations of utilization of lossses by other group companies. Exclusion of this capacity is considered to be uneconomical.	
8.4	EIOPA refers to five factors which may influence the amount of LAC DT. One of the factors mentioned is the net DTL. We would advise EIOPA to refer to nDTA as this is used as reference. EIOPA has made an analysis per Day 1 reporting while many supervisors have provided new local guidance on the calculation of the LAC DT which could have an impact on the analysis and outcomes. Furthermore the economic environment has changed since the Day 1 reporting which will also have an impact on the outcomes. This should be included in the assessment as the	

	volatility should also be considered when providing possibly more guidance as EIOPA envisages.	
8.4.1	When assessing the tax regimes an overview how annual results are recognised under fiscal legislation would also provide a valuable insight in the development of the nDTA on the economic balance sheets.	
8.4.2		
8.4.3		
8.4.4		
8.4.5		
8.4.6		
8.5		
8.5.1	The calculation of the net DTA/DTL should include the DTA/DTL elements available to the entity within its consolidation scope (downwards). The consequence of Art. 215 of the Directive (and the Q&A from EIOPA) is that the available DTL in investment subsidiaries cannot be taken into account, where it is in practice available if the company has the right to influence the policy of the subsidiary.	
8.5.2		
8.5.3		
8.5.3.1		
8.5.3.2	When assessing the horizon, the projection horizon for new businesses should be consistent with the valuation horizon of the liabilities. Especially with long term business there should be no limitations to the projection horizon. It should be avoided that unjustified differences would occur between the various regimes reported (fiscal, accounting and Solvency II). Uncertainty on future lapses or renewals could be addressed by sensitivity analysis and use of lapse assumptions within ALM studies and other publically available information (switch behaviour of policyholders/consumers). Restricting the horizon is not consistent with going concern requirements as stated in the Directive 2009/138/EC. Within valuation practices (merger & acquisitions) or impairment testing (IFRS) also longer time	

	horizons are used.	
8.5.3.3	The argument mentioned that pull-to-par is not consistent with article 207 (1) is not valid. This article refers to the instantaneous loss incurred. The recoverability analysis refers to future periods and behaviour of spreads or other elements. In assessing the pull-to-par effects the insurer should assess whether the asset is still maintained on the balance sheet for this pull-to-par to materialise.	
8.6		
8.6.1		
8.6.2	When assessing the horizon, the projection horizon for new businesses should be consistent with the valuation horizon of the liabilities. Especially with long term business there should be no limitations to the projection horizon. It should be avoided that unjustified differences would occur between the various regimes reported (fiscal, accounting and Solvency II). Uncertainty on future lapses or renewals could be addressed by sensitivity analysis and use of lapse assumptions within ALM studies and other publically available information (switch behaviour of policyholders/consumers). Restricting the horizon is not consistent with going concern requirements as stated in the Directive 2009/138/EC. Within valuation practices (merger & acquisitions) or impairment testing (IFRS) also longer time horizons are used.	
8.6.3		
9.1		
9.2		
9.3		
9.4		
9.4.1		
9.4.2		
9.4.3		
9.5		

	Comments Template on Consultation Paper on EIOPA's first set of advice to the European Commission on specific items in the Solvency II Delegated Regulation	Deadline 31 August 2017 23:59 CET
9.5.1		
9.5.2		
9.5.3		
9.6		
9.6.1		
9.6.2		
9.6.3		
9.7		
9.7.1		
9.7.2		
9.7.3		
9.8		
9.8.1		
9.8.2		
9.8.3		
9.9		
9.9.1		
9.9.2		
9.9.3		