Summary of Comments on Consultation Paper 17/004 - EIOPA-CP-17/004 CP-17-004- SCR review first set of advice	EIOPA 31 October 2017

EIOPA would like to thank stakeholders for providing their comments.

The numbering of the sections refers to Consultation Paper No. 17/004 (EIOPA-CP-17/004)

No.	Name	Reference	Comment	Resolution
1.	AAE	General Comment	As indicated in paragraph 11 it is highly recommendable to make use of the annual reporting templates to be send to EIOPA by July 2017 the latest. LAC DT: Only Day One reporting is considered in the paper. It is indispensable – especially for LAC DT – to repeat the calculations with the data of the business year 2016. Simplifications: According to paragraph 48, to obtain a full overview concerning the use of simplification the annual QRT are necessary. This limits the informative value of this issue performed for this Consultation Paper. Selective broadening of the request relating to LAC-DT: EIOPA announce to go beyond what is requested by the	Agreed on the use of annual QRT. The analysis on LAC DT has been updated and further information as regards the use of simplified calculation is provided. Disagreed for mass lapse: EIOPA is not stating that other sub-modules could not be reviewed. However for this review, a scope has been defined taking into account the request of the European Commission, the prudential concerns by NSAs, and the resources available.

			Commission's call for advice in case of LAC DT: 457. In this first response to the Call for Advice EIOPA will only address the request for information from the European Commission and will not yet come up with any advice on possible changes in the Delegated Regulation. EIOPA will continue working on supervisory convergence and, if deemed necessary, may advise changes in the Delegated Regulation in its second response to the Call for Advice. In case of mass lapse they came to a different decision: 30. The difficulties faced when calculating the capital requirements for lapse risk are understood and proposals for simplified calculations are described below. The appropriateness of the level of the mass lapse risk is not in the scope of the call for advice of the European Commission. The materiality of this risk could be assessed at a later stage with the help of the annual QRTs. Referring to the need for supervisory convergence to extend the scope of this call for advice for LAC DT while strictly sticking to the consultation for mass lapse risk is not consistent. Supervisory convergence should primarily lead to a comparable assessment of the solvency of an undertaking considering the risk and the national specifics (fiscal, legal, contractual obligations). Lapse risk is as well affected by national specifics and should be therefore be covered in this consultation in line with EIOPA general objective of supervisory convergence and level playing field.	

2.	Allianz SE	General Comment	We appreciate the opportunity to provide feedback on the consultation paper CP-17/004 regarding EIOPA's first set of advice to the European Commission on specific items in the Solvency II Delegated Regulation. In general we support the observations made in the feedback of the CRO Forum, Insurance Europe and the German Association of Insurers (GdV). In the following, we provide additional comments on selected specific items.	Noted.
3.	AMICE	General Comment	AMICE welcomes the opportunity to provide feedback to EIOPA's first consultation on the Review of the Solvency II Standard Formula. Our key messages are the following: __**Section 2 - Simplified calculations**__ • **Non-life lapse risk sub-module** should be computed at the Best Estimate Level. • EIOPA should allow the possibility of including **new simplifications** as they emerge based on the further development of methodologies and the experience of the industry with Solvency II. • The approximation to the Combined Standard Deviation Function should be added to the list of simplifications in the Delegated Regulation. • The LoB 29 Health insurance capturing the SLT business (*health insurance obligations where the underlying business is pursued on a similar technical basis to that of life insurance, other than those included in LoB 33*) should be split between **medical expense and income protection disability – morbidity risk**.	Partially agreed on simplified calculation: -EIOPA provides a new simplified calculation for non-life lapse risk; -new simplified calculations could be incorporated in the Solvency II Delegated Regulation for next reviews; -including the combined standard deviation function would not be a simplification; -the split of LoBs is not in the scope of this review. Partially agreed on reducing reliance on ECAI: -replacing ECAI's rating by using market spreads would not be appropriate for calculating the SCR standard formula for all exposures given the volatility and pro-cyclicality risks. There may though be specific asset classes where the consideration of market and accounting

			<u>Section 3 – Reducing Reliance on external credit ratings in the Standard Formula</u> • We support the AMICE proposal to take market spreads as a risk indicator instead of ECAIs' ratings. • The criteria listed to allow firms to nominate one ECAI only is very restrictive and would lead to a small subset of firms benefiting from the simplification proposed. Firms should be allowed to nominate one ECAI only provided their profit participation and unit-linked business is not material. **<u>Section 4 – Treatment of guarantees, exposure guaranteed by a third party and exposures to regional government and regional authorities</u>** • Partial guarantees should be recognized in the Market Risk Module. • RGLAs should follow the categorization of Article 115 CRR. Additionally, Guarantees from RGLAs subject to the Intermediate Treatment should be allowed in the Counterparty Default Risk and the Market Risk Module. • A definition of Public-sector entity should be provided. • The formula on the LGD on Mortgage Loans would have to be amended to properly reflect partial guarantees. **<u>Section 5 – Risk Mitigation Techniques</u>** • Adverse Development Covers should be recognized as a risk mitigation technique with some criteria.	data may be appropriate as one element of a comprehensive assessment of the credit risk; this is being assessed in the context of the second call for advice and the work being conducted on unrated debt. -the proposal has been changed and only the assets covering profit participation and unit-linked business have been excluded (as opposed to the whole of the undertaking). Partially agreed: -EIOPA does not advise to recognise partial guarantees in the market risk module given that the rating already takes account of partial guarantees and given that there is no evidence that these partial guarantees reduce the changes in spread. -the intermediate treatment is advised to be included in the market risk module only: in the absence of evidence on the appropriateness and materiality, EIOPA does not consider viable to introduce such intermediate treatment in the counterparty default risk module. -(re)insurance undertakings are mainly exposed to underwriting risk, market risk (risks faced by (re)insurance undertakings depend on both assets and liabilities) whereas the most significant risk to which

			Section 6 – Look-through Related Undertakings • We welcome EIOPA's advice to extend the look-through approach to investment related undertakings. However, the look-through should be optional under certain circumstances. • The look-through approach should also be extended at group level. **Section 7 – Undertaking Specific Parameters** • We welcome EIOPA's Proposal on USPs for Stop Loss. • USPs should be developed for the mass lapse sub-module. • Article 218 should be corrected as there is a typo. **Section 8 – Loss-Absorbing Capacity of Deferred Taxes** The key principles when computing the LAC_{DT} should be the following: • **Going-concern**: The Going Concern principle when computing the LAC_{DT} should be properly reflected. • **Time Horizon**: The recoverability time horizon should not be limited to the time horizon of the strategic plan. The time horizon could be different subject to the fiscal legislation which sets out when tax losses are actually recognised and when the carry forward term starts. • **Non-risk neutral environment**: Firms should be allowed to assess the probability of future profits in a real-world situation. • **Projection financial returns on own funds:** Financial revenues on	credit institutions are exposed is the credit risk. In the banking framework, the capital requirement for credit risk is calculated based on an exposure class while in the Delegated Regulation the capital requirement for counterparty default risk is calculated on the basis of a single name exposure. In Solvency II the concept of a single name exposure is broader than a separate exposure class as exposures to undertakings which belong to the same corporate group shall be treated as a single name exposure. Therefore EIOPA finds justified this difference with the banking framework on public-sector entities. -The formula on the LDG on mortgage loans has been amended. Please refer to the advice. Noted on risk mitigation techniques: EIOPA will further analyse these non-proportional reinsurance covers (ADC) and provide its final advice by February 2018. Partially agreed on look-through: -EIOPA is aware of the costs and challenges regarding data availability for the application of the look through, but is not in favour to promote an "optional" look-through approach, neither to propose "exemptions" for specific cases. The look

			own funds should be in the projection of future profits. Revenues are used to capitalise the technical provisions which are being discounted on the liability side; deferred taxes are therefore based on the differences between the Solvency and the Accounting Balance Sheet. • **Return to better values of shock variables** can be defined as a reversion of post stress credit spreads to their pre-stress levels.	through approach is one of the fundamental principles of Solvency II, also from a risk management perspective. EIOPA is rather going to further harmonize the application of article 84 of the Delegated Regulation. The introduction of "optional" provisions in the standard formula would not help meet this target. Furthermore EIOPA believes that the best way to enhance the "proportionality" in the standard formula is by proposing refinements to the already existing simplifications, to make them more widely applicable and less costly. EIOPA is indeed going to propose some improvements to the simplified look-through of article 84(3) in the second part of the Advice. -As regards look-through at group level, please refer to the consultation paper on second set of advice (November 2017) Partially agreed on USP: -EIOPA will assess the proposed methodologies for undertaking-specific parameters on lapse risk by February 2018 to the extent resources are available. -Disagreed that there is a mistake in Article 218.

				Noted on LAC DT. Please refer to the consultation paper on second set of advice (November 2017).
4.	Association of Financial Mutuals	General Comment	The Association of Financial Mutuals (AFM) represents insurance and healthcare providers that are owned by their customers, or which are established to serve a defined community (on a not for profit basis). Between them, mutual insurers manage the savings, pensions, protection and healthcare needs of over 30 million people in the UK and Ireland, collect annual premium income of £16.4 billion, and employ nearly 30,000 staff . The nature of their ownership and the consequently lower prices, higher returns or better service that typically results, make utual accessible and attractive to consumers, and have been recognised by Parliament as worthy of continued support and promotion. In particular, in the UK the FCA and PRA are required to analyse whether new rules impose any significantly different consequences for mutual businesses. We welcome this consultation, and the restatement by EIOPA of its commitment to ensuring it takes a proportionate approach to the regime for insurers, and looks for possible simplifications in the SCR standard formula. AFM members are largely smaller insurers, and the costs of implementing Solvency 2 have represented a significant burden in recent years.	Noted.
5.	Bundesv	General	We welcome the consultation of EIOPA's first set of advice to the	Regional Government and Local Authorities

	erband Öffentlicher Banken Deutschlands (VO	Comment	European Commission on the review of specific items in the Solvency II Delegated Regulation. The Association of German Public Banks (Bundesverband Öffentlicher Banken Deutschlands – "VÖB") is a leading association within the German banking sector. In particular, our membership comprises Landesbanken, as well as promotional and development banks owned by the Federal Republic of Germany or the individual German federal states. On 3 March 2017 we already transmitted you our comments on EIOPA'S recently published Discussion Paper on the Review of Specific Items in the Solvency II Delegated Regulation (EIOPA-CP-16-008). We strictly advocated that positions being secured by guarantees issued by German Federal States should receive a zero percent weighting under Solvency II.	that meet the requirements of Article 85 of the Delegated Regulation are treated as central governments for the purpose of the standard formula calculation.
6.	Deloitte Touche Tohmatsu	General Comment	In general, we welcome EIOPA's thorough approach and its willingness to adapt the SII framework for feedback from the industry following its first year of implementation. The suggested improvements are discussed below where we have specific comments. The suggested improvements focus on calculations and we would welcome more simplifications and/or reduction in reporting burden for smaller undertakings.	Noted.
7.	Dutch Association of Insurers	General Comment	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.	Noted.

			In addition to <data call> comments	
8.	European Association for Investors in Non-Listed R	General Comment	Although not a specific subject of this consultation, in the context of EIOPA's review of Solvency II generally, INREV would like to encourage EIOPA not to overlook new data that is relevant for its review of real estate SCRs. In March 2017, to prepare for this review and provide fresh evidence to support an SCR for real estate that more accurately reflects the volatility of real estate investment in Europe, IPD-MSCI published an update of its 2011 study. The update adds five countries and six years of data to the original study, bringing the capital risk analysis up to December 2015. This study concluded that the appropriate shock factors to use for determining real estate solvency capital requirements therefore would not exceed 15% for all Europe, or 12% for European composites that exclude the UK. A copy of the study can be found at: https://www.inrev.org/public-affairs/90-dossier-solvency-2/4995-updated-study-of-real-estate-volatility-challenging-solvency-ii-scrs-released-2	Noted. The review of the property risk sub-module is not in the scope of this review.
9.	European Association of Public Banks	General Comment	EAPB welcomes the publication and consultation of EIOPA's first set of advice to the European Commission on the review of specific items in the Solvency II Delegated Regulation. EAPB gathers over 30 member organisations which include promotional banks such as national or regional public development banks and local funding agencies, public financial institutions, associations of public banks and banks with similar interests from 17 European Member States and countries, representing directly and indirectly the interests of over 90 financial institutions towards the EU and other European stakeholders.	Noted. Aligning the RGLA list to the banking regulation might imply modifying the Commission Implementing Regulation (EU) 2015/2011. As that act is not covered by the review of the Delegated Regulation, any concrete change to the list will be proposed outside of this review. Direct guarantees from listed RGLA would be recognised in the market risk module.

			As already mentioned in the context of EIOPA's preceding consultation (EIOPA-CP-16-008), EAPB welcomes EIOPA's intention to ease insurance undertakings' investment into local funding agencies and public development banks' issuances, recognizing that they play an essential role in long term financing in Europe. In regard to the present consultation, EAPB generally favors an alignment between the Solvency II framework and the CRR where suitable in order to allow for a level playing field between insurance undertakings and credit institutions. Against this background, EAPB strongly supports EIOPA's proposal which stipulates that exposures which are guaranteed by regional governments and local authorities (RGLA) and which carry the same risk as guarantees from the respective central government shall be treated as guarantees of that central government under the market risk module (para. 221). This would not only tackle previous inconsistencies in the Solvency II framework but also remove unjustified differences between the regulatory framework for credit institutions and insurance undertakings. Another important consequence would be that insurance undertakings would be subject to more accurate own funds requirements when investing into financial instruments issued by promotional banks and local funding agencies (which are often guaranteed by RGLA) in their role as long term investors. Nonetheless, EAPB believes that EIOPA's final advice should also contain certain clarifications concerning specific guarantee mechanisms, which are sometimes used by local authorities	Guarantee mechanisms used by e.g. local funding agencies will however not be recognised in the standard formula calculations: it is believed that these guarantee mechanisms are too specific to be introduced in a standard formula, that should be appropriate for an average European undertaking.

			across the EU. In the detailed remarks section, EAPB thus wants to highlight the aspects, which it believes would still require further clarification.	
10.	European Public Real Estate Association	General Comment	**About EPRA** EPRA, the European Public Real Estate Association, is the voice of the publicly traded European real estate sector. With more than 240 members, covering the whole spectrum of the listed real estate industry, EPRA represents listed property companies, Real Estate Investment Trusts (REITs), investment institutions and the firms and individuals who advise and service those businesses. Between them our European members represent over EUR 430 billion of real estate assets and 86% of the market capitalisation of the FTSE EPRA/NAREIT Europe Index. Our core membership consists of listed property investment companies (including REITs) who are in the business of owning and operating portfolios of investment property. As a consequence, our further comments will be limited to the Solvency II treatment of investments in listed real estate. The Index Ground Rules – last updated in July 2017 – are available at http://www.epra.com/media/FTSE_EPRA_NAREIT_Global_Real_Estate_Index_Series_-_Ground_Rules_v7_1500884129701.8.pdf. **Relevant real estate activities** are defined as the ownership, trading and development of income-producing real estate. **Real estate companies** must be listed on an official stock exchange listed in Appendix 6 of the Index Ground Rules. At the same time, the Index requires constituents to derive **at least 75 percent** of their total earnings before interest, tax, depreciation and amortisation (EBITDA) **from relevant real estate activities** to qualify for index inclusion, and therefore this index series	Partially agreed. The Advice covers the prudential treatment of investments in "related entities" which are essentially investment vehicles, and for which the exemption from the look-through application of Article 84(4) might not be appropriate from a risk assessment perspective (following the principle of substance over form). The definition of "collective investment undertaking" is provided in article 1 (40) of the delegated Regulation, while the concept of "related undertaking" of Solvency II is clarified in detail in EIOPA Guidelines on the treatment of related undertakings, including participations. With this Advice EIOPA identifies a new asset category, i.e. "investment related undertakings", regardless of the type of investment activity being conducted (real estate, debts, private equity,..). The "related undertakings" that are not established for investment purposes and are not mostly used for investment activities are still subject to article 84(4). Furthermore EIOPA is not going to map all

			provides purer real estate exposure. To add more on the activities of our members, we also list below what is not considered to be relevant real estate activity for the purposes of the index eligibility under point 4.7 of the Index Ground Rules (at p. 10): • The financing of real estate. • The provision of construction management, general contracting and project management services. • The provision of property management, facilities management, insurance, power supply, brokerage, investment management funds and services. • Holding companies are excluded from the index. Holding companies are defined as companies that have more than 50 percent of their net assets invested in the securities of other listed companies. • Storage caverns/units for commodities such as oil & gas. • Companies for which the ownership of real property is incidental to the primary revenue generating activities, including those companies in the gaming, theme park and other entertainment businesses. • Infrastructure assets, including transportation assets (roads, bridges, tunnels, airports, etc.), energy and utilities assets (power generation, fuels, etc.), water and waste management assets and communication assets (line-based networks, air-based networks, etc.) and prisons. • Timberland and farmland. • Outdoor advertising. • Data center revenues labelled colocation will be considered real estate revenues for the purpose of the EBITDA screen only if the information is provided in sufficient detail to ensure that revenues from ineligible activities are not included.	possible investment schemes/funds within the "definitions" already provided in the Framework. The assessment of the different type of investment schemes/funds is left to undertakings and will anyway subject to the regular scrutiny by supervisors during supervision activities. As regards property investments, the 'EIOPA Guidelines on look- through approach' already clarify that for equity investments in a company exclusively engaged in facility management, real estate administration, real estate project development or similar activities, undertakings should apply the equity risk sub-module. Following the new Advice, according to EIOPA, in order to "qualify" for the application of the look through approach, the investment undertaking, other than meeting the general Solvency II conditions for being a "related undertaking", should meet all the specific conditions illustrated in the Advice (i.e. its main purpose is holding assets on behalf of the (parent) insurance undertaking; it supports the operations of the insurance undertaking related to investment activities, following a defined specific investment mandate; it does not run any other significant business than

			About the publicly listed property companies Investors in publicly listed property companies are able to access the income and capital returns generated by commercial property in a form which is transparent, well and internally governed and liquid. For investors in REITs, which generally include an obligation to distribute the majority (typically 90%) of income to investors each year, the close relationship to direct property returns is enhanced further due to the tax transparency of the REIT investment vehicle. The liquidity provided by listed property companies and REITs through stock market quotation does not change the property return profile over the medium to long term. In fact, the REITs market is more quick and efficient in terms of the response to changes in fundamentals affecting property, than the direct property market (EPRA Research /2009/ Cohen & Steers on Listed Property Performance as a predictor of direct real estate performance is available here; see also EPRA Research /2012/ The use of listed real estate securities in asset management by Alex Moss and Andrew Baum – available at here). **Benefits of investing in real estate via listed property undertakings** While insurance companies can invest in real estate via their related undertakings, we would like to strongly emphasize the advantages of investing in real estate via listed collective	investing for the purpose of the parent undertaking). This framework is intended to be general (and not tailored to specific investment schemes) and applies also for the case of REITs.

			property investment companies, including REITs, where for example the levels of **diversification** are much more adequate. Shares of listed real estate are readily converted into cash because they are traded ib the major stock exchanges, hence they offer investors an extra buffer of **liquidity** permitting market participants to buy and sell on demand (without being forced to suspend redemption as was the case of a number of pooled UK commercial property funds in June/July 2016 in the aftermath of the Brexit vote; more here). In addition, listed real estate companies offer **an extra layer of governance to investors**: • They operate under company law; • As well as having to meet accounting standards and stock exchange rules and various reposting requirements, including the recent non-financial information reporting. The income stream generated by commercial real estate is traditionally seen as one of the primary attributes of this asset class (Exhibit 3).	

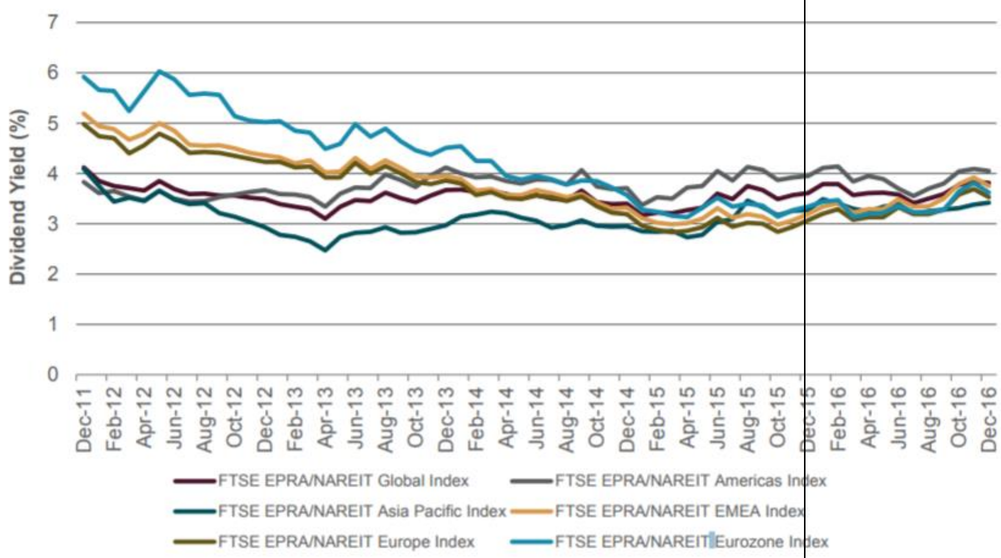
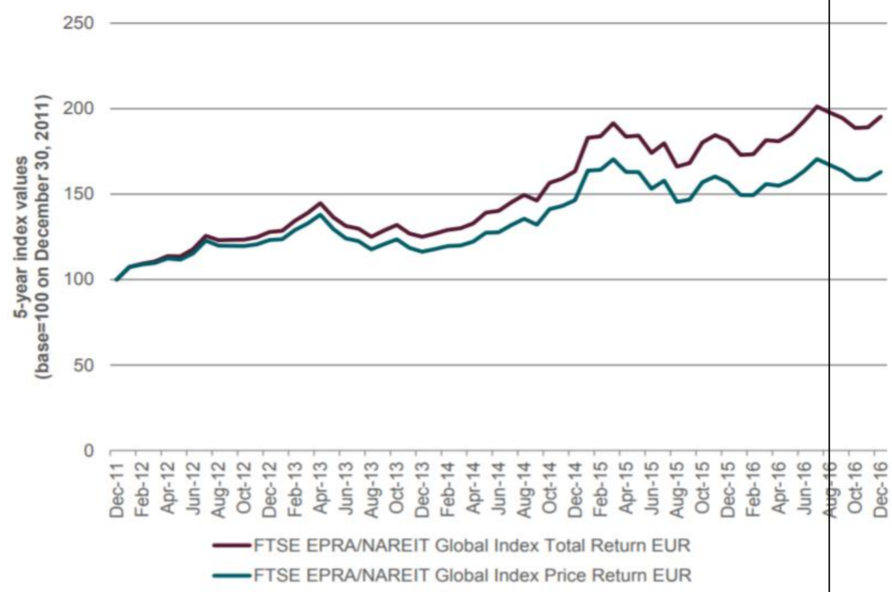
			Exhibit 3. FTSE EPRA/NAREIT Global Real Estate Index Series yields  Sources: FTSE Russell, data as of December 30, 2016. Past performance is no guarantee of future results. Please see the disclaimer for important legal disclosures. Over the five-year period to December 30, 2016, the difference between price and total return indexes, shown in Exhibit 4, illustrates the positive contribution of dividends to the performance of the FTSE EPRA/NAREIT Global Index.	

Exhibit 4. FTSE EPRA/NAREIT Global Index performance – Total and price return indexes in euro



Source: FTSE Russell, data as of December 30, 2016. Past performance is no guarantee of future results. Please see the disclaimer for important legal disclosures.

As shown in Exhibit 5, over the three-year period ended December 30, 2016, the FTSE EPRA/NAREIT Global index's correlation with the broad FTSE All-World Index was 70%. On a sector-by-sector basis, correlations between equities and the FTSE EPRA/NAREIT Global Index were lower: at 38%, the Oil & Gas sector was significantly less correlated than the overall FTSE All-World Index with global listed real estate. The correlations of the Financials, Basic Materials and Technology sectors of the

			FTSE All-World Index with global listed real estate stocks ranged from 52% to 58% over the same period. These correlation figures demonstrate the potential of global listed real estate securities to act as a diversifier in a broader equity portfolio. For any investor with a diversified portfolio, a global listed real estate index series represents a valuable addition to the asset allocation toolkit. Representing 4.6% of the global equity market as of the end of 2014, eight listed real estate securities represent a substantial proportion of the investment opportunity set. And the characteristic features of real estate as an asset class – an often relatively predictable income stream and the frequent inflation-linking of rents, offering the prospect of long-term real returns, together with a relatively uncorrelated return stream by comparison with other equity market sectors – make this category of investment a natural consideration for investors looking **to diversify portfolios with long-term savings goals.** More in the FTSE Russell Diversification, liquidity and transparency in global-listed real estate paper which is available here. **Why EPRA comments on the EIOPA draft advice?** We believe that it is important to create a solid level playing field for property investment vehicles to ensure that insurance	

			companies are able to sufficiently diversify their real estate investments. Our comments below, while limited to the listed real estate sector, are in line with the Commission's request to EIOPA for technical advice on the review of specific items in the Solvency II Delegated Regulation. More precisely, we would like to help EIOPA to **increase consistency for insurance companies investing in listed real estate across the EU member states**. This may require removing unintended technical inconsistencies which could possibly lead to constraints to financing listed (liquid) real estate. While looking at the look-through approach, we would like to help EIOPA to address investments in real estate in its Guidelines in a more holistic way. In addition, we will comment on the look-through approach and investments in related undertakings. While it is important to define clearly what an investment related undertaking is, it is equally important to make distinctions between the collective investment undertakings (under the look-through), insurance investment undertakings, investment related undertakings and last but not least investments in related undertakings. For the purpose of the Solvency II look-through approach application, those terms are distinct and have different Solvency II treatment. Below, we comment on those terms in more details. Please note that our intention is to help improve the current	

			consistencies, or the lack of it, of the application of the Solvency II rules on the listed property sector. The benefits of this asset class are very well researched and demonstrated. It is our belief that the role of the regulation at the EU level is to help treat a single asset equaly across all 28 member states; and unfortunately this is not at the moment guaranteed for listed property investment companies, including REITs. As a consequence, investments flow in real estate, but through more opaque and more liquid real estate funds (via the the look-through approach), rather than through listed, transparent and liquid real estate which has been proven to perform similarly as direct real estate in the medium and long-term (the MSCI study of the drivers of European listed real estate performance which can be downloaded from here). More about the sector can be also found in the EPRA report on the stock exchange listed property companies: Buiding a Stronger Europe (2013) which is accessible here. **Application of the look-through approach: Inconsistent treatment of listed property companies and REITs** In summary, it is our strongly held view that listed property companies should be treated as their underlying assets, i.e. property, (following the look-through approach) under the framework of the Solvency II Delegated Regulation. This categorisation supports clear evidence showing that listed real estate is more closely related to direct property than to equities	

			and corresponds to the EIOPA's "substance over form" principle. However, there are considerable inconsistencies in the application of Solvency II as far as the listed property companies, including REITs, are concerned as they are sometimes categorised as equity, sometimes as strategic equity and sometimes as property via the look-though approach. These inconsistencies and uncertainty about treatment of the listed property companies have a significant impact on the ability for insurance companies to own a liquid form of real estate. And we strongly argue that an equity classification is not be accurate because it would result in an excessive level of "stress test" for the listed property sector which is not appropriate for this class of asset. Our view, which is supported by market evidence from the developed listed property markets, is that listed property companies would be more appropriately treated as their underlying assets (property) in by applying the look-through approach. We also refer to **the EIOPA Guidelines on the look-through approach** under which investments in real estate are cathegorised as follows:	

			Guideline 3 – Investments in real estate 1.11 Undertakings should cover the following investments in the property risk submodule: a) Land, buildings and immovable property rights; b) Property investment held for the own use of the undertaking. 1.12. For equity investments in a company exclusively engaged in facility management, real estate administration, real estate project development or similar activities, undertakings whould applu the equity risk sub-module. 1.13 Where undertakings invest in real estate through collective investment undertakings or other investment packaged as funds they should apply the look-through approach. The problem we are experiencing across the industry is that the national prudential regulators have diverse interpretations on the EIOPA Guidelines. And as you can see from the Guildelines above, there is no excplicit reference to the listed investment property companies which might have been causing a confusion between both the regulators and the market participants. We would therefore like to invite EIOPA to look at the Guidelines as	

			part of this review and consider to specify that where undertakings invest in real estate through listed property investment companies, including REITs (which as any other collective investment undertaking – not a fund - collectively invest in an income producing commercial real estate), the they should apply **the look through approach**.	
11.	Gesamtverband der deutschen Versicherungswirtschaf	General Comment	GDV supports the review of specific items in the Solvency II Delegated Regulation and appreciates the improvements proposed by EIOPA. However, we believe that in some areas the advice could be further enhanced. As a basic principle it has to be ensured that all requirements are proportionate to risks. The extent and complexity of requirements should not be further increased. In addition, the principle of proportionality demands that proportionate and simplified applications of the requirements are possible.	Noted.
12.	Institut des Actuaires (France)	General Comment		
13.	Insurance and Reinsurance Stakeholder	General Comment	The IRSG appreciates the opportunity to provide comments on EIOPA's draft advice to the European Commission. The IRSG in particular welcomes that the draft advice reflects its previous proposals in the following areas:	Disagreed on non-listed simplified calculation: first there are legal constraints to the introduction of non-listed simplified calculations (empowerment in the Solvency II Directive 2009/138). Second to set a capital requirements as a simplified

	Group (IRSG)		• **Simplified calculations**: The IRSG welcomes that additional simplifications are being considered for various areas of the standard formula, in particular for lapse risk sub-module. • **Reducing reliance on ECAIs**: the IRSG welcomes EIOPAs intended work on internal models and third-party providers, as well as the proposed simplifications for ratings of fixed-rate bond portfolios. • **Guarantees and RGLA exposures**: the IRSG welcomes the expanded recognition of central government and RGLA guarantees and the proposed changes to Solvency II. • **Risk mitigation techniques**: the IRSG welcomes the proposals to extend the recognition of short-term derivative contracts and to alter the provisions for partial recognition of risk mitigation provided by reinsurers which are temporarily in breach of their SCR. • **Look-through for investment related undertakings**: the IRSG supports the proposed definition approach. • **USPs**: The IRSG appreciates the introduction of a new USP method for non-proportional reinsurance and that consideration will be given at a later stage to USPs for nat cat, longevity and mortality once the recalibration	calculation, undertakings would need to perform certain calculations and then demonstrate that these are appropriate: this would increase the burden of undertakings and supervisors for an outcome that could be at the detriment of policyholders' protection. Partially agreed on reducing reliance on ECAI: further guidance on internal assessment will be provided by EIOPA and the situation can be assessed again in the future years. Agreed: EIOPA will further analyse these non-proportional reinsurance covers (ADC) and provide its final advice by February 2018. Disagreed on look-through: see response to comment 3. Partially agreed on USP: EIOPA will assess the proposed methodologies for undertaking-specific parameters on lapse risk by February 2018 to the extent resources are available. On data criteria: these are core requirements for using USP and they are in line with the requirements on data quality for the best estimate calculation, hence EIOPA does find these requirements justified. Agreed on LAC DT: EIOPA has updated its analysis with end 2016 figures and will

			works are completed. However, the following areas do not reflect the previous input by the IRSG and therefore the IRSG encourages further consideration by EIOPA: • **Simplified calculations**: The IRSG believes that non-prescribed simplifications should be permitted when they are immaterial to the calculated total SCR of the undertaking. • **Reducing reliance on ECAIs**: EIOPA should be more ambitious in its efforts to encourage the industry to build internal credit assessment capabilities – these should ultimately be allowed for regulatory purposes and EIOPA should lead the way in developing such capabilities by developing a "best practice" model that, in addition to accounting measures, features probability of default and loss-given-default metrics. • **Risk mitigation techniques**: The IRSG encourages further work is undertaken to ensure that the prudential framework does not restrict the development and use of legitimate risk mitigation techniques, such as Adverse Development Covers. • **Look-through for investment related undertakings**: The IRSG believes the look-through should be optional, with appropriate prudential safeguards.	consult on its policy option during November-December.

			• **USPs**: the IRSG believes that EIOPA should be more ambitious regarding the relaxation of data requirements, the enlargement of areas of application, and the scope of standardised methods. On the issue of **LAC DT**, the IRSG believes that further work is needed by EIOPA to provide a more accurate picture of the way it is dealt with across Europe. Once this analysis is finalised, the IRSG believes that EIOPA will have delivered on its mandate "*to report on the different methods currently applied and on their impact"*.	
14.	Insurance Europe	General Comment	Insurance Europe welcomes the initial review of the Solvency II regulatory framework and supports its main goals, namely: • to ensure a proportionate and technically consistent supervisory regime for (re)insurance undertakings; and • to look for possible simplifications in the SCR standard formula and to ensure the proportionate application of the requirements. Insurance Europe acknowledges the good progress that EIOPA has made towards achieving these goals through its proposals outlined in the first set of advice. However, it believes that additional work is required in a number of areas to achieve an optimal outcome to the review project. For example, Insurance Europe believes that the analysis of the LAC DT does not provide a complete picture of the issues and caution should be used when drawing conclusions from this analysis. Insurance Europe has provided detailed feedback on the proposals addressed in EIOPA's first set of advice. It further looks forward to	Disagreed on simplified calculation: please refer to response to comment 1. Partially agreed on reducing reliance on ECAI: please see final advice for the changes done to the proposal (floating interest rates allowed; assets covering profit participation and UL business excluded instead of excluding the whole undertaking). Partially agreed on guarantees and RGLAs: -Aligning the RGLA list in the Commission Implementing Regulation (EU) 2015/2011 with the list of the banking framework would imply modifying implementing regulation. As that is not covered by the review of the Delegated Regulation, any concrete change to the list will be proposed

			working in collaboration with EIOPA, and other stakeholders, on the remaining topics due to be addressed in its second set of advice. **Simplified Calculations -** Insurance Europe welcomes the simplified approaches that are introduced, which should allow for a wider and more consistent application of proportionality in practice. However, Insurance Europe does not support EIOPA's views on a number of items further detailed in the response. In particular, Insurance Europe believes EIOPA is entitled to address the level of mass lapse risk. **Reducing reliance on ECAIs in the standard formula -** Insurance Europe welcomes EIOPA's investigations into alternatives for insurers to using nominated ECAIs for supervisory purposes, such as internal credit assessment models and the use of third-party commercial and non-commercial providers. Insurance Europe appreciates the proposed simplification within the remit of Article 88 of the Delegated Regulation. However, Insurance Europe cautions that an overly prudent approach to allowing the use of this simplification may make it not workable in practice. **Treatment of guarantees, exposure guaranteed by a third-party and exposures to regional governments and local authorities (RGLAs) -** Insurance Europe supports EIOPA's proposed changes, namely: • Extending the recognition of RLGA guarantees in the spread and concentration risk sub-modules and to Type 2 exposures in the counterparty default risk module. • Recognising partial guarantees in the context of Type 2 exposures in the counterparty default risk module. • Recognising RGLA guarantees which are not listed in ITS (EU) 2015/2011 and the associated capital charges.	outside of this review. Moreover when EIOPA makes changes to the implementing regulation there will be a consultation period on its proposal so that stakeholders are able to express their views. -According to recital 42 of the Delegated Regulation the effect of the implementing act adopted pursuant to Article 109a(2)(a) of Directive 2009/138/EC is that direct exposures to the RGLA listed are treated as exposures to the central government of the jurisdiction in which they are established for the purposes of the calculation of the market risk module and the counterparty default risk module of the standard formula. This means that direct guarantees from listed RGLA would be recognised in the market risk module. Guarantee mechanisms used by e.g. local funding agencies will however not be recognised in the standard formula calculations: it is believed that these guarantee mechanisms are too specific to be introduced in a standard formula. Moreover recitals cannot legally be changed by reviews. Agreed on risk-mitigation techniques: EIOPA will further analyse these non-proportional reinsurance covers (ADC) and provide its final advice by February 2018. Disagreed on USP: please see response to comment 13.

			However, Insurance Europe expresses caution regarding the approach taken to harmonising the list of qualifying RGLAs between the banking and insurance regulations, as this may introduce an overly granular and rigid approach to determining the equivalence between RGLAs and central governments, contrary to the intention of Article 85 of the Delegated Regulation. Additionally, Insurance Europe supports the spirit of EIOPA's proposed changes to the articles in the Delegated Regulation. However, Insurance Europe suggests changes to the LGD formula, a full exclusion from compliance with Article 215 (f), and the deletion of the last sentence of Recital 42 in the Delegated Regulation to avoid confusion. **Risk-mitigation techniques -** Insurance Europe supports the proposals put forward by EIOPA to refine the restriction on the replacement frequency of risk-mitigation techniques and to alter the requirements for the partial recognition of risk-mitigation provided by a reinsurer temporarily in breach of the its SCR. However, it believes further work is needed to improve the recognition of Adverse Development Covers and Finite Reinsurance. **Look-through approach: investment related vehicles -** Insurance Europe welcomes EIOPA's work done on the extension of the look-through approach to related undertakings. It broadly supports the criteria and definition of an "investment related undertaking" proposed by EIOPA. However, additional work is required to ensure that the application of the look-through approach can be implemented in a proportionate manner. **Undertaking specific parameters -** Insurance Europe remains strongly supportive of the use of USPs which, together with the proportionality	Partially agreed on LAC DT: EIOPA has updated its analysis by using end 2016 figures and this answers the request of the Commission on information. However EIOPA has decided to further advice the Commission on LAC DT calculation in order to harmonise practices, taking the differences in tax regimes as a given.

			principle, are meant to ensure that Solvency II works for all companies, irrespective of their size (SMEs, monoliners). However, despite some improvements proposed by EIOPA, Insurance Europe remains concerned by the restricted scope of USPs in terms of areas of application as currently defined in the Delegated Regulation. In addition, Insurance Europe is concerned that EIOPA advises against the introduction of new standardised methods and also rejects any amendments to the current data requirements, which are very stringent and thereby are not conducive to a wider use of the USPs. Insurance Europe strongly believes that the scope of USPs should not be restricted to certain areas, as is currently set out in the Delegated Regulation, but rather expanded to life, health, non-life catastrophe and even operational risk. This enlargement to all areas permitted by the Solvency II Directive is in Insurance Europe's view necessary for Solvency II to be workable for all undertakings regardless of their size, including SMEs/mono liners. **Loss-absorbing capacity of deferred taxes (LAC DT) -** Insurance Europe notes that the Commission has requested EIOPA to report on the various methods currently applied across Europe with regards to the loss absorbing capacity of deferred taxes (LAC DT) and on their impact. Insurance Europe therefore believes that, by submitting its analysis, EIOPA will have fully delivered on its mandate and no further action is necessary. Insurance Europe believes a "one size fits all" view on the calculation of LAC DT is not appropriate, and this is demonstrated by the weak correlations in the data analysis by EIOPA. Therefore, Insurance Europe's	

			view is that standardisation of the calculation of LAC DT is not necessary, nor is any additional guidance required.	
15.	Investment and Life Assurance Group (ILAG)	General Comment	ILAG welcomes EIOPA's thorough approach in its analysis and assessment. We have suggested some improvements which have particular focus on areas which may be burdensome for smaller undertakings.	Noted.
16.	KPMG	General Comment	We appreciate the opportunity to comment on the above Consultation Paper. We have consulted with, and these comments represent the views of, the KPMG network. We are focusing on those aspects that we consider of special importance. Please consider our silence on other questions not as an implicit agreement.	Noted.
17.	Reinsurance Advisory Board (RAB)	General Comment	**Alternative methods for non-proportional reinsurance and other risk mitigation techniques** RAB continues to support improved recognition of reinsurance under the premium and reserve risk module of the standard formula where effective risk transfer can be shown consistent with the Solvency II Directive in Art 101 para 5, ie "*When calculating the Solvency Capital Requirement, insurance and*	Partially agreed on non-proportional reinsurance: -EIOPA does not advise on the proposal to introduce a term "RM_other". The proposal is unspecific and it is not clear how this term would be calculated without scenarios, which raise difficulties explained in the consultation paper. -On ADC, EIOPA will further analyse these

			reinsurance undertakings shall take account of the effect of risk-mitigation techniques, provided that credit risk and other risks arising from the use of such techniques are properly reflected in the Solvency Capital Requirement." As stated in previous feedback (to EIOPA's Discussion Paper on the review of specific items in the Solvency II Delegated Regulation), RAB believes that based on evidence undertakings indeed cannot take into account many types of reinsurance, for no valid reason. Simple methods to support better recognition of these risk mitigations that are workable under the current assumptions and calibrations of the standard formula were proposed. It is important that these will be implemented without increasing complexity of the standard formula, eg through one simple adjustment factor *"RM_other"* as specified in previous submissions. RAB also highly appreciates that EIOPA has considered the proposed method for Adverse Development Covers (ADCs) in its draft advice and has provided detailed feedback. RAB would like to address some issues that EIOPA has raised in its assessment in the remainder of this response. **Risk margin** As was outlined in previous communications, the RAB considers that the magnitude and volatility of the risk margin should be reduced and will join with other companies in Insurance Europe and the CRO Forum to provide concrete suggestions for amending the calculation of the risk margin and the CoC rate. As disclosed in the Solvency and financial condition reports (SFCRs) YE 2016, the amount of risk margin in absolute and relative terms was very significant for some reinsurance groups YE 2016 (total risk margin above	non-proportional reinsurance covers and provide its final advice by February 2018. Noted on risk margin. Please see EIOPA's consultation paper on second set of advice (publication in November).

			50% of the SCR for large reinsurance groups, and even in the 65%-85% range for 2 groups). In particular, the life risk margin can be very large (above 30% or even above 70%) as a percentage of Life best estimates for reinsurance groups, and especially when excluding Health and Unit-linked/Index-linked (eg above 45% or more). As a comparison, the final CEIOPs advice on the risk margin (October 2009) included an Impact assessment on the cost-of-capital rate for the risk margin (Annex B) which anticipated a ratio of the risk margin (RM) to the best estimate (BE) of 5% for life insurance based on a cost-of-capital rate of 6% (10% for non-life insurance). The present low interest rate environment has demonstrated that the current specification of the risk margin is inappropriate, in particular for long-term life insurance business, as it has resulted in excessive values of the risk margin and excessive volatility with respect to interest rates. Falling interest rates significantly increase capital costs for long-term insurance products and disadvantage the supply of products offering long-term insurance protection for consumers, relative to products which only protect against market risks. The RAB considers the cost of capital rate of 6% as too high for pure insurance risks considering their limited correlation with the market. This over-calibration has had significant effects in the current low interest rate environment. CRO Forum studies on the risk margin from 2008 indicate that a range of 2.5% to 4.5% for cost of capital was appropriate, and further suggest that the rate is more likely to have fallen since then in light of low interest rates reducing the return investors require from investments generally. The applied methodology should be adapted so as to reflect a more	

			appropriate (lower) cost of capital rate that appropriately recognises the cost of non-hedgable risk in respect of pure insurance risk. Considering the CAPM approach, there is limited correlation between a single insurance risk and the return on the global market portfolio as a whole. Therefore, the specific cost of capital related to pure insurance risk (and hence captured by the cost of capital parameter in the risk margin) is likely to be significantly lower than 6%. Appropriate adjustments should be considered if using the CAPM or other approaches to estimate the CoC rate because they are "total return" approaches, and provide an indication of the overall rate of return that might be demanded by an investor. The current level of the CoC rate is excessive because: - No sufficient adjustment is made to reflect the fact that the CAPM is a total return approach whereas the risk margin is based on pure insurance risks; or at least, the adjustment is undermined by the use of a high beta factor for the insurance sector. - It is calibrated based on US data and backward-looking Equity Risk premiums as a substitute for the forward-looking one, which has been recognised by the literature to generate a strong upward bias. The RAB also considers that – within the risk margin – the assumption that all future capital funding requirements are independent is not appropriate for long term business. Furthermore and importantly, the SCR underlying the group risk margin calculation should allow for **full diversification of risks across the group**, in line with how those risks are likely to be managed in practice.	
18.	Insuranc	1	Insurance Europe welcomes the initial review of the Solvency II	Noted.

	e Europe		regulatory framework and supports its main goals, namely; • to ensure a proportionate and technically consistent supervisory regime for (re)insurance undertakings; and • to look for possible simplifications in the SCR standard formula and to ensure the proportionate application of the requirements. Insurance Europe acknowledges the good progress that EIOPA has made towards achieving these goals through its proposals outlined in the first set of advice. However, it believes that additional work is required in a number of areas to achieve an appropriate outcome of the review project. For example, Insurance Europe believes that the analysis of the LAC DT does not provide a complete picture of the issues and caution should be used when drawing conclusions from this analysis. Insurance Europe has provided detailed feedback on the proposals addressed in EIOPA's first set of draft advice. It further looks forward to working in collaboration with EIOPA, and other stakeholders, on the remaining topics due to be addressed in its second set of advice.	
19.	Association of Financial Mutuals	2.1	We support the proposals put forward by our sister European trade body, AMICE: that there is no need to compute the model error when applying simplification, and for a simplification for non-life lapse risk.	Disagreed. The calculation of the error ensures that the simplified calculation does not lead to material misstatement of the SCR and does not lead to mistake in assessing the risk profile of the undertaking.
20.	Insurance and Reinsurance	2.1	The IRSG welcomes that EIOPA is considering the introduction of additional simplifications into various areas of the standard formula. The IRSG also welcomes EIOPA's clarification in relation to assessment of the error introduced by simplification.	Noted.

	Stakeholder Group (IRSG)		As previously commented in its response to the DP, the IRSG considers that the ability to apply simplified calculations is beneficial in ensuring that a proportionate approach can be applied, thereby reducing the burden on small and medium sized undertakings. The IRSG acknowledges the reference to specific sub-modules in articles 111(1)l of the Solvency II directive but still believes that, in addition to the allowed simplifications, consideration should be given to facilitating the use of simplifications on a wider basis, and not solely following prescribed approaches. Non-prescribed simplifications permitted should be immaterial to the calculated total SCR of the undertaking and should be required to be fully, but not excessively, documented. In the IRSG opinion, it is disproportionate to require all insurance and reinsurance undertakings to apply the standardised calculation when immaterial non-prescribed simplifications would in fact be justified and provide support in reducing the burden.	Disagreed. See paragraph 22 of consultation paper.
21.	Insurance Europe	2.1	Insurance Europe welcomes the Commission’s request for EIOPA to investigate the simplified calculations provided for specific sub-modules and risk modules, as well as the criteria that insurance and reinsurance undertakings would be required to fulfil in order to be entitled to use simplifications. As proportionality is an overarching principle of Solvency II, Insurance Europe welcomes all simplified approaches that are introduced, which should allow for a wider and more consistent application of proportionality in practice.	Noted
22.	AAE	2.3	Non-Life lapse risk Explanations given under the analysis section in paragraph 27 say that there is room to have a simplification for the lapse risk calculations. Furthermore, an application of the shock referred to in Articles 118(1)	EIOPA is not foreseeing additional simplifications

			and 150(1) by homogeneous risk groups is described as a "could be" simplification. Later in the document, the calculation on homogeneous risk groups is advised as the only simplification. Is there still room for further / additional simplified methods. Simplifications (22): We understand EIOPA's concern that non-listed simplifications still need to be correctly calibrated. Nevertheless, we do not agree that non-listed simplification are in general close to an internal model and we would like to highlight that ruling out non-listed simplifications in general is in strong contrast to the objective to simplify the calculations for (re)insurance undertakings either. We therefore recommend allowing for non-listed simplifications as long as they fulfill certain qualitative requirements. One example would be to allow for non-listed simplification that use the methodology prescribed by the Standard Formula as a basis. There already exist such qualitative requirements within the Delegated Regulation (c.f. simplification for V_prem in Article 116 4 a) and b)). These requirements could be generalized for non-listed simplification to address the calibration topic raised. This would be in line with the principle-based approach of Solvency II. Simplifications (23): In particular, when setting values to a conservative value the comparison to an internal model is ambiguous. There are plenty of examples where a conservative value can be chosen without a model discussion, e.g. the maximum value of the diversification factors in the Non-Life Natural Catastrophe Module (Div_ws, Div_EQ, Div_hail, Div_flood) is 1. So setting these values to 1 is conservative and avoids additional calculations. Another example is the simplification for V_prem in Article 116 4 as mentioned above (22).	Disagreed. As stated in paragraph 22, there are legal constraints to the introduction of non-listed simplified calculations (empowerment in the Solvency II Directive 2009/138). Article 116(4) is not considered a simplification but a calculation that is closer to the risks in certain cases, where the volume of the business decreases. Partially agreed. Proposals to avoid calculating diversification

			These examples show that the regulation is set up to allow for conservative assessments already and conservative values can be obtained in line with existing methods. Therefore, in order to further simplify the calculations in line with the objective of this CP, we suggest allowing explicitly the use of conservative values. As described for non-listed simplifications this might be subject to qualitative requirements.	benefits have been introduced.
23.	AMICE	2.3	According to EIOPA, the legislation is considered to be sufficient to limit the administrative burden for insurers. However, insurers have another view; These different perspectives suggest that individual supervisors act differently from what have been indicated by EIOPA. In this context, it would be justified to provide some guidance for supervisors as to how to perform this assessment. Proportionality Assessment When assessing Proportionality, a qualitative analysis is the first step. Only if the qualitative assessment is not sufficient a quantitative assessment is needed. Supervisors should therefore act retrospectively as part of the supervisory review process. Simplifications should not be subject to a pre-approval process but its assessment should be subject to the supervisory review process.	Disagreed. The number of simplified calculations shows that they are widely used. Agreed. It is clear that simplifications are not subject to pre-approval processes.

			EIOPA indicates in Paragraph 19 that the number of simplified calculations used is around 1000. Can EIOPA provide more granularity as to which simplifications are the ones used by firms and/or per country?	
			Exhaustive list As only simplifications may be used if they are listed in the Delegated Regulation, this is considered to be an exhaustive list. We would urge EIOPA / EC to allow the possibility of including new simplifications as they emerge based on the further development of methodologies and the experience of the industry with Solvency II.	Please refer to the final advice.
			The simplifications included in the exhaustive list should not entail any demonstration as they already include a level of prudence. Only for the new simplifications not listed in the Delegated Regulation the evaluation in qualitative and quantitative terms of the error introduced in the simplified calculation as indicated in Article 88 would have to be carry out.	Agreed. New simplified calculations can be considered for future revisions of the Delegated Regulation with concrete proposals.
			Non-life lapse risk We would like to remind EIOPA that insurance risks are not monitored on a policy-by-policy basis but rather on a portfolio basis. Simplifications for Non-life lapse risk over homogeneous risk groups (HRG) can be misaligned with the unbundling of insurance contracts. If a policyholder lapses it is assumed that all related insurance covers will lapse. Non-life contracts have different guarantees which are split across different HRG. When the policy lapses the different guarantees lapse as well, those which are profitable and those which are onerous. It is therefore meaningless to compute the Non-Life lapse risk sub-module at homogeneous risk group level. We reiterate the need to apply this shock	Disagreed. Only simplified calculations listed in the Delegated Regulation are allowed.

at the best estimate level. The potential slight underestimation of this approach should be compensated by the high level of calibration of this risk (i.e. 40% shock).

Combined Standard Deviation Function
For premium and reserve risk, the parameter used to approximate the 99,5% quantile is equal to 3 which reflects the 99,5% quantile of a lognormal distribution. This is not consistent with the underlying distribution used to calibrate the standard deviation for premium and reserve risk.
The capital requirement for the combined premium risk and reserve risk was computed as follows

$$\rho(\sigma) = \frac{\exp\left(N_{0.995} \bullet \sqrt{\log(\sigma^2+1)}\right)}{\sqrt{\sigma^2+1}} -$$

$N_{0.995}$ = 99.5% quantile of the standard normal distribution
σ = Combined standard deviation for non-life premium and reserve risk
The formula above has been replaced by the following proxy:

$$NL_{pr} = 3 \cdot \sigma \cdot V$$

where
V = Volume measure
σ = Combined standard deviation for non-life premium and reserve risk
The table below shows that the simplification overstates the capital requirements for premium and reserve risk for low standard deviations (from 5% to 13%) whereas it understates the capital requirements for high standard deviations (from 14% to 19%).

Line of Business	**Standard**	**p(sigma)**

Non-life lapse risk

Disagreed.

We acknowledge the hurdles that still apply on the calculation at HRG level but applying it at BE level is not 100% accurate as well and it is an improvement comparing to the standard calculation.

Combined Standard Deviation Function

On the formula: we do not consider the suggestion appropriate as it is not intended by the review to add complexity.

On the scenario based approach, that should be dealt with in the scope of partial

				deviation premium risk	**Simplification**	**Standard calculation**
			Medical Expenses	5,0%	15,0%	13,6%
			Income Protection	8,5%	25,5%	24,0%
			Worker's compensation	8,0%	24,0%	22,5%
			Non-proportional health reinsurance	17,0%	51,0%	52,3%
			Motor vehicle liability insurance	8 %	24,0%	22,5%
			Other motor insurance	8 %	24,0%	22,5%
			Marine, aviation and transport insurance	15 %	45,0%	45,2%
			Fire and other damage to property insurance	6,4 %	19,2%	17,7%
			General liability insurance	14 %	33,6%	32,5%
			Credit and suretyship insurance	12 %	36,0%	35,1%
			Legal expenses insurance	7 %	21,0%	19,4%
			Assistance	9 %	27,0%	25,5%
			Miscellaneous financial loss insurance	13 %	39,0%	38,4%
			Non-proportional	17 %	51,0%	52,3%

internal models where the factor-based approach does not fit the underlying risk profile including reinsurance treaties in place.

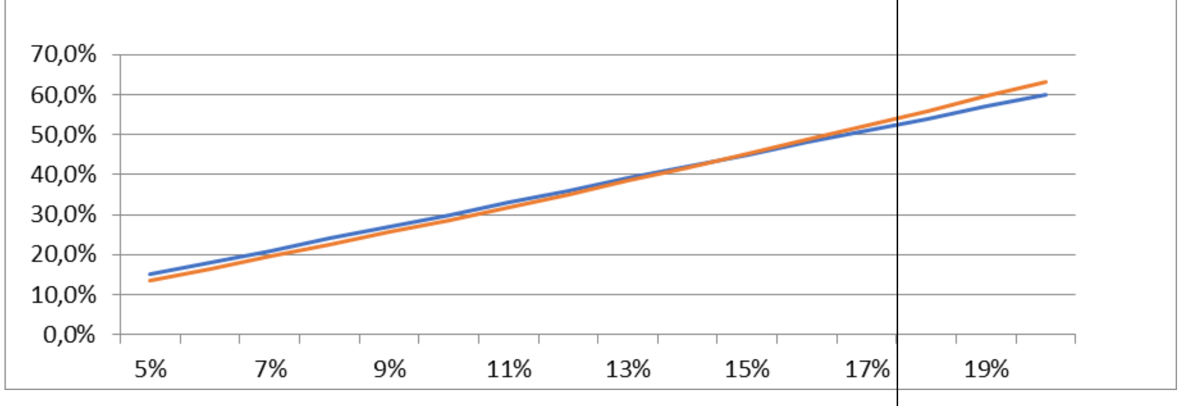
casualty reinsurance				
Non-proportional marine, aviation and transport reinsurance	17 %	51,0%	52,3%	
Non-proportional property reinsurance	17 %	51,0%	52,3%	

Line of Business	Standard deviation reserve risk	p(sigma)	
		Simplificati on	Standar calculat
Medical Expenses	5,0%	15,0%	13,6%
Income Protection	14,0%	42,0%	41,8%
Worker's compensation	11,0%	33,0%	31,8%
Non-proportional health reinsurance	20,0%	60,0%	63,3%
Motor vehicle liability insurance	9,0%	27,0%	25,5%
Other motor insurance	8,0%	24,0%	22,5%
Marine, aviation and transport insurance	11,0%	33,0%	31,8%
Fire and other damage to property insurance	10,0%	30,0%	28,7%
General liability insurance	11,0%	33,0%	31,8%
Credit and suretyship	19,0%	57,0%	59,6%

insurance				
Legal expenses insurance	12,0%	36,0%	35,1%	
Assistance	20,0%	60,0%	63,3%	
Miscellaneous financial loss insurance	20,0%	60,0%	63,3%	
Non-proportional casualty reinsurance	20,0%	60,0%	63,3%	
Non-proportional marine, aviation and transport reinsurance	20,0%	60,0%	63,3%	
Non-proportional property reinsurance	20,0%	60,0%	63,3%	

Standard deviation	**p(sigma)**	
	Simplification	**Standard calculation**
5%	15,0%	13,6%
6%	18,0%	16,5%
7%	21,0%	19,4%
8%	24,0%	22,5%
9%	27,0%	25,5%
10%	30,0%	28,7%

11%	33,0%	31,8%
12%	36,0%	35,1%
13%	39,0%	38,4%
14%	**42,0%**	**41,8%**
15%	45,0%	45,2%
16%	48,0%	48,7%
17%	51,0%	52,3%
18%	54,0%	55,9%
19%	57,0%	59,6%



We would propose by default the exact formula and the proxy as a fall-back method.
Additionally, we would like to reiterate the need to allow a scenario based approach for non-life premium & reserve risk as it would facilitate the application of reinsurance covers and the recognition of the loss

			absorbing capacity of non-life discretionary benefits.	
24.	Deloitte Touche Tohmatsu	2.3	Non-listed simplified calculations Paragraphs 22 and 23 imply that using a non-listed simplification would be akin to using an internal model. However, we consider that this is not always the case and would welcome EIOPA's view on whether a non-listed simplification which results in a more prudent position may be permissible in certain cases. We consider that National Supervisory Authorities should be allowed to grant waivers for specific simplifications on the grounds of materiality and/or proportionality. Non-life underwriting risk module and non-similar-to-life-techniques health underwriting risk sub-module Paragraph 26 reflects on feedback that certain risks and mitigants are not captured appropriately in the standard formula and the EIOPA response implies that this requires additional complexity rather than simplification. Consideration should be given to addressing the more common issues by adapting the non-life SCR standard formula for the more frequent exceptions observed. We consider that this would appropriately address the majority of issues and agree with EIOPA's position that for more complex and firm-specific risks, partial internal models would be appropriate.	Disagreed As stated in paragraph 22, the empowerment in the Solvency II Directive allows for listed simplified calculations only. Noted. Please refer to the consultation paper on volume measure.
25.	Dutch Association of Insurers	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 act 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	See response to comment 23. EIOPA could also provide further guidance in its supervisory handbook in the future. It should be noted that new simplified calculations can be considered for future revisions of the Delegated Regulation.

			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.	
26.	Insuranc e Europe	2.3	Paragraph 18 Insurance Europe welcomes the clarification that the assessment of the model error needs not be quantitative by default. However, to avoid uncertainty on the part of the (re)insurer and promote convergence of practices among the NSAs community, Insurance Europe proposes the following redrafting suggestion: "[…]It is acknowledged that the quantitative evaluation may be challenging, but (re)insurance undertakings may , as a first step, perform a qualitative evaluation and if that indicates that the deviation is not significant a quantitative assessment would not necessarily be required." Paragraph 19 Insurance Europe agrees with EIOPA that the documentation of the assessment of model error introduced by a simplification is not preventing its use, but continues to believe that the administrative burden is unnecessarily high and therefore restrictive. The difference of opinion between EIOPA and the industry on this topic suggests that there may be a divergence of acceptable practices across supervisors. Insurance Europe, therefore, believes it may be justified for EIOPA to provide some guidance to supervisors on what constitutes a suitable assessment.	Partially agreed. Quantitative estimations may be necessary in some case, therefore EIOPA does not see the need for changes. Disagreed. The number of simplified calculations used is an objective criteria that illustrates the proportionality principle. EIOPA could also provide further guidance in its supervisory handbook in the future.

			Paragraphs 22 & 23 Insurance Europe does not support EIOPA's view that a wider than prescribed use of simplified calculations would amount to operating within an internal model framework. In fact, Insurance Europe believes that there are at least two instances (see below) for which the burden of proof could be far below that required within an internal model framework. Therefore, in addition to the simplifications that will be expressly listed in the legal texts, the Delegated Regulation should allow companies to take one of the following options to simplify their calculations as part of the proportionality principle: • set the SCR to zero for any risk to which they have no exposure. • set the SCR to a fixed amount that they can show is no less prudent than the standard formula. Paragraphs 27 Insurance Europe appreciates that EIOPA suggests a way forward for a simplified calculation for non-life lapse risk that would alleviate the strong operational challenge of applying the discontinuance of 40% on a policy by policy basis. The suggestion to base the calculations on the same homogeneous risk groups that are used for the calculation of the best estimate (as EIOPA explains under paragraphs 61 & 68) is seen as an improvement. However, Insurance Europe continues to believe that EIOPA should consider removing the lapse risk within the non-life underwriting risk sub-module from the standard formula as this sub-module adds unnecessary complexity for a risk that is immaterial for non-life business. In addition, Insurance Europe reiterates that there is a double counting of lapse risk between the lapse risk module and the premium risk module	Disagreed. Setting the SCR to a prudent amount requires a method, which would be a simplified calculation. Lapse risk: Noted but considered out of the scope of the review.

			which needs to be addressed. This is because the calibration of the premium risk module was based on historical premium volumes which also included the effect of lapses. If a separate risk module for lapses is kept, then the calibration of the premium risk must be recalculated based on data from which lapses have been removed. Finally, there is no justification of the stress factor of 40 %. Paragraphs 30 & 31 Insurance Europe welcomes the new simplifications introduced for life and health similar to life lapse risk (as EIOPA explains under paragraphs 54 & 72), which support a wider and more consistent application of the proportionality principle. Regarding the appropriateness of the level of the mass lapse risk, Insurance Europe disagrees with EIOPA's assessment that it is beyond the scope of the call for advice of the European Commission and believes that all calculations are in scope as evidenced by the following excerpt of the call for advice: EIOPA is asked to: • Suggest improvements for the existing simplifications and explore and propose methods and criteria for further simplifications, in order to ensure that simple and easy to apply methodologies are provided for all standard formula calculations, bearing in mind the need to strengthen a proportionate application of the requirements. Moreover, EIOPA states that the materiality of the mass lapse could be assessed at a later stage with the help of the annual QRTs. In Insurance Europe's opinion, the relevant QRTs (S.26) will only inform on the contribution of the mass lapse to the SCR, not on the materiality of the	We do not see the need to remove historical lapses from the calibration because those are the observations and somehow will reflect the expected lapse levels (in average) whereas the lapse SCR captures extreme situations that deviates from the normal circumstances (where the those circumstances will show that lapses occur).

			risk. The contribution of the mass lapse to the SCR is bound to be high since the calibration of the risk is unrealistically high. Paragraphs 31 Insurance Europe welcomes the new simplification introduced for the mortality sub risk module, which supports a wider and more consistent application of the proportionality principle. Paragraphs 33 & 34 Insurance Europe welcomes that EIOPA envisages new simplified approaches for the spread risk and the concentration risk sub-modules, as well as on the look-through, and it looks forward to assessing proposals that EIOPA will put forward in the second draft advice.	Disagreed. The request is to provide simplification, not to assess the appropriateness of the parameters. Noted Noted Noted

27.	Investment and Life Assurance Group (ILAG)	2.3	Non-listed simplified calculations Paragraphs 22 and 23 suggest that to use a non-listed simplification would be akin to using an internal model. We do not agree with this. The application of the proportionality principle must surely mean that a non-listed simplication is valid where the calculation is unduly burdensome relative to the outcome of the calculation. We believe that National Supervisory Authorities should be allowed to grant waivers for specific immaterial simplifications on the grounds of proportionality.	Disagreed There is no empowerment to allow for such proposal.
28.	AMICE	2.4	The Article 155 and Article 156 of the Delegated Regulation compute the capital requirement for medical expense disability – morbidity risk and income protection disability – morbidity risk. The health disability – morbidity risk sub-module is computed as the sum of the "Capital requirement for medical expense disability – morbidity risk" and the "Capital requirement for income protection disability – morbidity risk" with no diversification benefits. However, this distinction is not recognised in the annex for the LoBs. The SLT business does not have different lines of business. The LoB 29 Health insurance captures the SLT business (health insurance obligations where the underlying business is pursued on a similar technical basis to that of life insurance, other than those included in LoB 33). Breaking down the lines of business between medical expense and	Noted. This is out of the scope of this consultation paper.

			income protection disability – morbidity risk should be envisaged in this context.	
29.	AAE	2.4.2	Non-Life lapse risk (simplified formula approaches): While under paragraph 59 it is stated that difficulties encountered for the calculation of non-life lapse risk are similar to life lapse risk, the definition of simplifications should take into account the relation of these risk with the non-life lapse risk tending to have a very low materiality compared to life. The introduction of a simplified calculation of this risk on homogeneous risk groups is appreciated. In addition to this we would recommend to take the following into account as well: The risk reflects impacts on the premium provision in shocked events and there highly depends on the methods used to determine these provisions. There are many companies in the market where the premium provision is calculated on homogeneous risk groups or simply LoBs by applying simplified methods (e.g. formula based approaches based on Combined Ratios). These methods can be developed further to directly determine the lapse risks allowing a simplified calculation (e.g. formula based further developing the Combined Ratios based approaches). An example for such approaches is highly propagated by Gesamtverband der Deutschen Versicherungswirtschaft e.V. (GDV). The GDV provided a formula for the premium provision and derived a direct formula for the SCR of the lapse risk. Reference is made to their comments on CP-16-008 Q1.6. Why haven't such approaches been further stated, explained and followed in CP-17-004?	Noted. However we consider that those additional proposed approaches cannot be placed in the scope of the standard formula but should rather be considered under Partial Internal Models.

31.	Insurance Europe	2.4.2	Paragraphs 45 to 47 Insurance Europe welcomes the clarification regarding the assessment of the model error in paragraphs 45 & 46, notably in paragraph 46 second sentence "[…] In particular, where a qualitative evaluation indicates that the error is immaterial there is no need to evaluate the error in quantitative terms." However, Insurance Europe highlights that it is often challenging to provide a qualitative assessment that meets supervisors' expectations. It, therefore, continues to believe that concerns about the burdensome nature of the proportionality assessment remain valid in contrast to EIOPA's statement in paragraph 47. Paragraphs 52, 54 & 61 Insurance Europe welcomes the proposed simplified approaches on mortality, longevity, and lapse risks, which consist of basing the calculations on the same homogeneous risk groups that are used for the calculation of the best estimate. Paragraphs 58 Insurance Europe welcomes the slight adjustment to the existing simplification for the mortality risk.	Disagreed. EIOPA considers that (re)insurance undertakings should assess the error that using a simplified calculation introduces. This is a minimal effort and does not contravene the principle of proportionality Noted Noted

32.	AAE	2.4.3	Agree with the proposed modification of the formula for simplified calculation of the life mortality risk and health mortality risk. In this case, Article 91 of the Delegated Regulation needs to be adapted. The item CARk is not defined. It might not be easy to calculate this value. Caveat: There is an item CARi defined in Article 96. This is different and must not be mixed up! Currently Article 91 contains the following definition for the Capital at risk for this purpose (a) CAR denotes the total capital at risk, meaning the sum over all contracts of the higher of zero and the difference between the following amounts: (i) the sum of: - the amount that the insurance or reinsurance undertaking would currently pay in the event of the death of the persons insured under the contract after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles; - the expected present value of amounts not covered in the previous indent that the undertaking would pay in the future in the event of the immediate death of the persons insured under the contract after deduction of the amounts recoverable from reinsurance contracts and special purpose vehicles; (ii) the best estimate of the corresponding obligations after deduction of the amounts recoverable form reinsurance contracts and special purpose vehicles; Non-life lapse risk sub-module	Agreed that it is different from CARi provided in Article 96 of the Delegated Regulation. Clarifications will be provided in the final advice.

			27/62: We support the introduction of a simplified calculation for non-life lapse risk, but the requirement to demonstrate that there are no material compensations between policies needs clarification. In non-life insurance, there are usually material compensations between policies being affected by claims and those, which are not within a homogeneous risk group, which is a fundamental concept in non-life insurance. It needs to be clarified that these types of compensation do not fall within the requirement. Lapse risk sub-module: We welcome the proposed additional simplifications that now allows companies to use homogeneous risk groups to calculate the lapse stress (as opposed to policy-by-policy calculations). This is (a) more representative of what is actually likely to happen in a stress scenario and (b) should lead to less burdensome calculations. It will be important for companies to be able to demonstrate that a simplified approach does not give rise to material offsetting (between policies in the same group) within the lapse risk calculations.	Disagreed that an additional provision concerning potential offsetting should be included. These compensations should be avoided as well in the calculation of the non-life lapse risk Noted
33.	Insurance Europe	2.4.3	Paragraphs 66 Insurance Europe welcomes the clarification. See the comments provided to paragraphs 45 & 46. Paragraphs 67 to 74 See the comments provided to paragraphs 52, 54 & 61. Paragraphs 76 See the comments provided to paragraph 58.	Noted See relevant responses to paragraphs mentioned.

34.	Investment and Life Assurance Group (ILAG)	2.4.3	Life underwriting risk module and similar-to-life-techniques health underwriting sub-module We welcome the simplification of the calculation of mass lapse risk as set out in paragraphs 72-74. While we acknowledge that the calibration of the mass lapse risk is not in scope of this consultation, we believe the level at which it is set is unduly prudent and we would welcome a review of the mass lapse stress at a future date.	Noted
35.	KPMG	2.4.3	We agree with the advice that the simplified calculation could be based on homogenous risk groups in case the (re)insurance undertaking can demonstrate that there are no material compensations between policies.	Noted
36.	Allianz SE	2.4.4	This change restricts the usage of simplifications to the ones included in the Delegated Acts and is not an error correction. This restriction would increase uncertainties for the application of the regulation and it is in conflict with the principle of proportionality. It is market practice to apply non-listed simplifications based on an interpretation of the regulation that the provided list in the Delegated Regulation is not exclusive. Examples of non-listed simplifications which are widely applied are actually described in this consultation paper. A differentiation between a simplified formula / approach as provided in the SII Delegated Regulation and an approximation or expert judgement in the gathering of necessary input data for the standard formula calculations could be beneficial. The latter should be allowed as long as the requirements of Art. 109 of the Solvency Framework Directive in combination with Art. 88 of the Delegated Acts are complied with.	Disagreed. Please see Article 111(1)(l) of the Solvency II Directive and paragraph 22 of this consultation paper.

			An area where we see the need for the introduction of further simplifications is the look-through approach. We appreciate that this issue will be addressed in the second set of advice.	
37.	Association of Financial Mutuals	2.4.4	We are comfortable with the proposed corrections.	Noted
38.	Gesamtverband der deutschen Versicherungswirtschaf	2.4.4	EIOPA wants to clarify that article 88, which specifies how to decide whether a simplified calculation is proportionate to the nature, scale and complexity of risks, only refers to simplified calculations included in the Delegated Regulation. Instead, there should be an additional provision expressly declaring that there are two ways of simplified calculations possible: - to apply the simplified calculations given in the Delegated Regulation (in fact, this does not mean to calculate the standard SCR for a certain risk in a simpler way but to replace it by an alternative definition of the SCR for this risk); - to apply the standard definition of the SCR but to use a conservative estimate of its value instead of an exact calculated one.	Disagreed. The second bullet point requires a demonstration by the undertaking and is equivalent to a non-listed simplified calculation
39.	ACTUAM	3.1	For the counterparty default risk Calculation (risk mitigation techniques) in case the reinsurer is both rated by a credit rating agency and subject to Solvency II (calculating a SCR – Solvency II ratio) the following could be suggested: - Instead of using the credit rating of the reinsurer obtained from rating agencies methods could be	Disagreed. See paragraph 110 of the consultation paper. For banks, the use of quantitative ratios needs to be completed by a qualitative assessment, which makes difficult to implement the proposal.

			performed to consider the SCR – Solvency II ratio of the reinsurer for its exposure to counterparty default risk. For example the use of the equivalence provided by the EIOPA (the use of the SCR – Solvency II ratio which is allowed currently for unrated companies) but to use it not only for unrated companies but also for companies having an SCR – Solvency II ratio even if they are rated by a credit rating agency. For the counterparties (e.g.: banks) which have no credit rating instead of using the "unrated" feature the use of the credit rating of the parent in case based on analysis on Annual Reports for example one proves that the parent is commited to support the unrated bank.	
40.	Association of Financial Mutuals	3.1	AFM met with the largest ECAIs in early 2016, to explain that the interest which mutual insurers had in ratings data was limited purely to the need to provide the data as part of their regulatory returns: this data offers no commercial value for mutual organisations, and as AFM members outsource their fund management, the ratings can already be accessed by the relevant manager. The ECAI's largely accepted this argument, and made amendments to their general charging structure for UK mutuals to reflect the narrow use of the data by mutuals, and to reflect the fees already derived from fund managers. This has helped make the fees and licenses position much more proportionate, and we have suggested that agencies adopt the same approach in other jurisdictions.	Noted.

			Our guidance to members also suggests that in many cases, it would only be necessary to derive ratings data from one ECAI- where the market coverage is high, and where they have sufficient capital reserves to accept that some of their portfolio might not have been rated by that one agency. This does not appear to have caused any complications.	
41.	Gesamtverband der deutschen Versicherungswirtschaf	3.1	GDV welcomes EIOPA's initiatives to look into alternatives to external ratings. External credit ratings play an important role in the risk assessment processes of institutional investors. Despite the shortfalls of external credit ratings in some asset classes in the past, their performance and value as an risk indicator has been very good in many other asset classes. Direct regulation of CRAs as well as updated rating criteria have improved the overall quality and validity of external ratings. Moreover, given lack of quantitative and qualitative data, frequency of such data as well as availability of and capacities for adequate models and expertise, insurers will in most instances not come to a better assessment than external credit agencies. We therefore suggest that regulation should not aim at replacing the use of such external credit ratings altogether but rather concentrate on strengthening the voluntary development and use of own credit risk assessments. Moreover, any regulatory provisions on allowing alternatives to nominated ECAIs for supervisory purposes should not be overly complex but aim to be practicable for insurers.	Noted. The proposals do not aim at replacing nominated ECAIs.

42.	Insurance and Reinsurance Stakeholder Group (IRSG)	3.1	The IRSG welcomes EIOPA's commitment to conduct an investigation into alternatives to nominated ECAIs for regulatory supervision, such as the development of internal credit models and the use of third-party models. However, the IRSG notes that in addition to encouraging insurers to develop such models, EIOPA should be more ambitious and actually allow the use of such pre-approved credit models for regulatory purposes. The IRSG questions the implicit contradiction of the proposal to incentivise internal rating approaches but not to further extend these approaches. In fact EIOPA could attempt to develop and publish a "best-practice" model, similar to ones used for non-commercial third-party assessments (eg by central banks/authorities).The market could then use this as a foundation for developing tailored solutions, more suitable to each company's specific risks. Such a model should incorporate probability of default and loss-given-default parameters. The IRSG also welcomes the proposed simplifications for plain vanilla corporate bond portfolios, but notes that applying excessively stringent conditions to qualify for using this simplification may restrict its practical application.	Noted. Please also refer to EIOPA's next consultation paper on unrated debt.
43.	Insurance Europe	3.1	Insurance Europe welcomes EIOPA's investigations into alternatives for insurers to use alternatives to nominated ECAIs for supervisory purposes, such as internal credit assessment models and the use of third-party commercial and non-commercial providers. Insurance Europe further welcomes the proposed	Noted. The proposal under Article 88 of the Delegated Regulation does appear workable to EIOPA.

			simplification within the remit of Article 88 of the Delegated Regulation, specifically in relation to insurers' debt portfolios. However, Insurance Europe cautions that an overly prudent approach to allowing the use of this simplification may be make it not workable in practice.	
44.	KPMG	3.1	Currently there are already measures in place to mitigate the over-reliance on external ratings, i.e. art. 4 paragraph 5. It should be clarified whether the current mitigation measures are removed, replaced or extended. In developing the advice consistency with banking regulation should be considered.	Noted. Article 4(5) of the Delegated Regulation is not proposed to be changed.
45.	Royal Dutch Actuarial Association	3.1	We support the ambition to prevent over-reliance on external credit ratings. However, the use of external credit ratings should not be fully removed, but there should be (additional) alternative approaches or alternatives for specific exposures to mitigate the over-reliance on external credit ratings. Eliminating the option to use external ratings can lead to an increase in costs for insurers who need to establish a methodology to determine a rating. The existing Delegated regulation already provides alternatives for larger or more complex exposures (Article 4(5): Where an item is part of the larger or more complex exposures of the insurance or reinsurance undertaking, the undertaking shall produce its own internal credit assessment of the item and	Noted. The use of external credit ratings should not be fully removed.

			allocate it to one of the seven steps in a credit quality assessment scale. Where the own internal credit assessment generates a lower capital requirement than the one generated by the credit assessments available from nominated ECAIs, then the own internal credit assessment shall not be taken into account for the purposes of this Regulation. ») We encourage the development of more alternatives. However, in our view, the use of external credit ratings should not be fully removed. In our view, the own credit assessment should be critically reviewed by the supervisor. From that perspective, there is no need to include a « floor » on the capital requirement as proposed by the last sentence quoted here.	Disagreed. The floor ensures consistency of the rating of an asset when the SCR is calculated by different undertakings. For the most material and most complex exposures, it also makes sense to apply a prudent approach.
46.	AMICE	3.3	In Paragraph 105, EIOPA explains that the more detailed proposal to use spread as a risk indicator instead of ECAI's mapping has been assessed as non-appropriate (in agreement with the view of several stakeholders); "It may increase pro-cyclicality and incentivize (re)insurance undertakings to focus on the short-term credit risk". We draw attention to the fact that the proposal has not been fully understood and we apologize if our description has lacked clarity. In the proposal, spreads are not used to calibrate the main item of the spread risk (i.e the spread risk of the reference portfolio is derived from the same calibration as currently standing in the Delegated Regulation and	Partially agreed. EIOPA acknowledges that a significant work has been done to put forward this proposal on a challenging topic. EIOPA still believes that removing references to ECAI ratings and introducing references to market implied ratings in the standard formula would not be appropriate. This quantitative information is certainly useful and the proposal interesting, but it cannot be used on a standalone basis. See for instance EIOPA's next consultation paper on unrated debt where other qualitative information are taken into account in the assessment.

			hence derived from ratings which will save costs and will open the door to the inclusion of other considerations in the calibration; it is to be noted that EIOPA could consider modifying the calibration by inserting other informative elements overtime and even assess the construction of an EIOPA ‘own database to be managed and assessed by EIOPA). In the proposal, spreads are only used to compare the insurer specific portfolio with the reference portfolio. Where a significant difference exists, an adjustment factor to the spread risk calibration factor computed on the reference portfolio is to be applied by the undertaking. The adjustment factor should make up for the difference in risk profile between the firm’s specific portfolio and the reference portfolio and would be derived from the difference on their respective average spreads. A table of adjustment factors according to the differences in spreads would have to be provided by EIOPA and that table of factors could itself mitigate the procyclical element brought by the difference in the portfolios ‘spreads by an appropriate assessment of the correction needed. EIOPA explains that the AMICE proposal may increase pro-cyclicality and incentivize (re) insurance undertakings to focus on the short-term credit risk. We had suggested in our proposal to use the moving average in order to smooth short term effects. In Paragraph 106, EIOPA states that the moving average would disregard new available information but both	

			avoiding pro-cyclicality and considering the most recent information is not possible. Moreover, as EIOPA would be in charge of computing the standard charge for the reference portfolio and the major part of the spread risk charge would be derived from the reference portfolios where spreads are not directly used, the pro-cyclical effect would be very limited. A sharp move in the spreads would be unseen for a company whose portfolio is very close to the reference portfolio provided that no externality has led to any change in the standard charge of the reference portfolio.	
47.	Association of Financial Mutuals	3.3	Whilst we recognise and support the work of AMICE to identify alternatives to the use of ECAI's, we are finding the current arrangements, as described in paragraph 3.1 above to be workable and cost effective. Indeed, many of our members have benefited from an agreement by some agencies to not charge the mutual insurer for ratings data, where the use is limited solely to regulatory reporting, and where the fund manager already has licences in place. Our continued discussions with some of the agencies indicate they are keen to copy across the approach adopted for UK mutuals to other small insurers in Europe. The shortcomings of alternative approaches is that they	Noted.

			will become a proxy for the work produced by rating agencies, and may not be as reliable, and based on our own experience will add greater cost to small organisations.	
48.	Gesamtverband der deutschen Versicherungswirtschaf	3.3	GDV welcomes EIOPA's ongoing work on the issue of extending the framework to assessments provided by commercial and/or non-commercial third parties. The use of such frameworks could also help insurers to develop own credit risk assessment expertise and hence to reduce reliance on external ratings. We suggest that EIOPA looks into approaches followed by central banks such as the Deutsche Bundesbank by for example recognising these credit risk assessments as eligible for the purpose of the standard formula calculation. Reducing dependence on CRAs is also of particular importance for insurers since the three largest credit rating agencies have increased licensing fees substantially in recent years. Allowing alternatives for supervisory purposes such as own credit assessments on the basis of the German investment code (Kreditleitfaden) for Schuldscheindarlehen would provide an adequate alternative to external credit ratings while at the same time ensuring prudent and standardised credit risks assessments. Currently insurers are developing various internal credit risk measures for certain asset classes. Future guidance should therefore not restrict the various analytical	Noted. Please also see EIOPA's next consultation paper on unrated debt. The list of ECAI allowed to be used is provided by ESMA. Agreed

			approaches currently used by insurers to review external ratings or provide new mandatory requirements for the use of internal ratings but aim to encourage the voluntary development and use of proprietary credit risk assessments. We welcome EIOPA's conclusion that market implied ratings are an inappropriate risk indicator for supervisory purposes. Using a methodology based on market implied ratings for the standard formula has a number of shortfalls. Pricing information can be very volatile due to market sentiment and rumours and not reflect the fundamental risk situation of investments and markets. Moreover, pricing information on credit default swap spreads is only available for a limited number of instruments an insurer typically invests in. Finally, pricing of such instruments is often (and increasingly) impaired by illiquidity in the market which is devaluing such pricing information as a meaningful indicator. Accountancy-based measures in the standard formula are seen as the more adequate approach given the experience with such ratios in the market. To give an example, accountancy-based financial ratios have been used for many years with good success in the German market in order to assess the credit quality of private placements (Schuldscheindarlehen) for which market implied indicators are difficult to gain. Meaningful covenants can mitigate the shortfalls (e.g. assessment of business prospects) of accountancy-based measures.	Noted Noted. Please also refer to EIOPA's work on unrated debt.

49.	Insurance Europe	3.3	Paragraph 90 Insurance Europe welcomes EIOPA's investigation into whether third parties other than nominated ECAIs should be allowed to perform credit assessments for regulatory and supervisory purposes. This would encourage more competition in the market for credit assessments and thus potentially lower the costs for insurers. Reducing dependence on CRAs is of particular importance since the three largest credit rating agencies have increased licensing fees substantially in recent years. Paragraph 97 to 98 Insurance Europe welcomes EIOPA's recognition of the value of insurers developing internal credit measures and ratings for certain asset classes. Future guidance should, therefore, not restrict the various analytical approaches currently used by insurers to review external credit ratings. Development of internal credit assessments requires specific expertise, access to a wealth of internal information and ability to make use of economies of scale. Therefore, a number of insurers will continue to rely on external credit risk assessments. However, encouraging the voluntary development and use of proprietary credit risk assessments is an important step to achieving a viable alternative and supporting the	Noted. Please refer to EIOPA's next consultation paper on unrated debt. The example of LTG measure is here to show that a certain degree of qualitative judgment is necessary where assessing the credit quality of a counterparty.

			development of credit risk models by those insurers who are willing and able to develop expertise and commit the necessary resources. Such initiatives should be closely monitored by the NSAs to assess comparability of Solvency II data. In fact, Insurance Europe believes that, at least as part of the second call for advice, EIOPA should not only develop high-level guidance, but also investigate and potentially aim to replicate what some NCAs (such as the Deutsche Bundesbank) have done in the banking regulation, by for example recognising some credit risk rating sources as eligible for the purpose of the standard formula calculation. EIOPA could then aim to publish a public, free-to-use credit assessment model, which may be used as a starting point for insurers who are considering developing such capabilities. Ideally, such models would not rely solely on accountancy metrics and qualitative considerations, but also on a default approach (ie using probability of default and loss-given-default parameters as inputs). Paragraph 104 to 107 Insurance Europe welcomes EIOPA's conclusion that market spreads are unsuitable for replacing ECAI assessments. Insurance Europe believes that: ☐ A formulaic market-based ratings approach would not be able to reflect the actual risk profile of an asset/entity as it would incorporate elements unrelated to credit quality, such as market sentiment, rumours,	

			central bank purchasing activities, and could therefore be pro-cyclical. ☐ Furthermore, pricing information, eg credit default swap spreads, is only available for a limited number of instruments, and such market pricing is often (and increasingly) also reflective of non-credit specific elements such as (il)liquidity. This makes pricing information less meaningful from a pure credit perspective. With regard to accountancy-based measures, Insurance Europe notes that these may be appropriate, particularly in the context of private debt placements, whereby a corporate borrower is seeking financing as part of a marketplace which has certain lending standards in place (eg the German Schuldschein market or the French Euro PP market). Important downfalls have to be kept in mind, however, in respect of accountancy-based measures. For example, financial ratios often only reflect past data and performance of companies and sometimes fail to recognise business prospects, although investment analysis often involves trend analysis and forward projections of borrowers' certain financial statement items. Meaningful covenants can mitigate the downfalls of accountancy-based measures. Paragraph 110	

			Insurance Europe believes the example included in this paragraph is not appropriate, as the LTG measures are a valid part of the Solvency II framework and are rightfully used in the calculation of the Solvency II ratio.	
50.	Investment and Life Assurance Group (ILAG)	3.3	We welcome the ongoing work described in paragraph 90 to further assess the possibility of extending the framework to assessments provided by commercial and/or non-commercial third parties in the context of the second call for advice. The use of official credit ratings agencies is key in many undertakings' risk assessments, but there are undertakings which require more bespoke assets and counterparties to be rated, as noted in this consultation (for example mortgages, personal loans, or unrated debt). We also welcome the assessment in paragraph 109 that where external firms provide ratings, (re)insurance undertakings should be able to evidence their understanding of the rating process as part of their Prudent Person Principle.	Noted.
51.	KPMG	3.3	Internal measures and ratings Reducing reliance on ECAI can be achieved by allowing insurers to develop internal credit risk assessment models. This is therefore a good alternative, the alternative should however be optional and/or	Noted. Please see EIOPA's next consultation paper on unrated debt (to be published in November).

			proportional. In this way larger (re)insurance undertakings can also use the internal credit assessments for improvement of their internal (credit) risk management, whereas undertakings with less resources do not have to bear the costs. We support EIOPA in further investigating this alternative in the second call for advice, not limited to unrated debt. Market implied ratings and accountancy-based measures We agree that the approach of using market implied ratings could result in more volatile results. Furthermore, there is potential risk of complexity and inconsistency between (re)insurance undertakings. Multiple methods might be required for different asset classes. (Re)insurance undertakings concentrated in a specific industry or country (e.g. domestic country) could be signficantly impacted, apart from concentration risk, due to an increase in specific market spreads. Other alternatives In addition to alternatives, the requirement for which (re)insurance undertakings nominate one or more ECAIs, to be used for the calculation of the SCR according to the standard formula, should be revised. For plain vanilla exposures one ECAI rating can be sufficient. The use of multiple ratings results in additional expenses and conctracts, while the benefit of using multiple ratings for plain vanilla exposures is limited.	Partially agreed. If one ECAI covers the portfolio of vanilla exposures, the regulation does not require the nomination of a second ECAI. Please also see EIOPA's proposal of a simplified calculation (par. 118 and following of the consultation paper)

52.	Royal Dutch Actuarial Association	3.3	Internal measures and ratings Reducing reliance on ECAI can be achieved by allowing insurers to develop internal credit risk assessment models. This is therefore a good alternative, the alternative should however be optional and/or proportional. In this way larger (re)insurance undertakings can also use the internal credit assessments for improvement of their internal (credit) risk management, whereas undertakings with less resources do not have to bear the costs. We support EIOPA in further investigating this alternative in the second call for advice, not limited to unrated debt. Market implied ratings and accountancy-based measures We agree that the approach of using market implied ratings could result in more volatile results. Furthermore, there is potential risk of complexity and inconsistency between (re)insurance undertakings. Multiple methods might be required for different asset classes. (Re)insurance undertakings concentrated in a specific industry or country (e.g. domestic country) could be significantly impacted, apart from concentration risk, due to an increase in specific market spreads.	Noted.
53.	AMICE	3.4	Paragraph 106 indicates that the moral hazard issue cannot be mitigated by (re)insurance undertakings via their own disclosure; We did not claim that moral hazard is mitigated by undertaking's own disclosure. We	Noted on the moral hazard issue.

			did explain that the moral hazard is very limited since companies value their assets in the prudential balance sheet in an appropriate and prudent manner and that any moral hazard behavior would imply an enormous amount of manipulations and transactions in order to produce an effect on spreads. This behaviour could not go unseen without putting the insurance's undertaking under the threat of a massive reputational risk. Paragraph 107 indicates that the use of the reference portfolio raises practical issues; there are several of such portfolios, a portfolio per country and a portfolio per currency; a risk charge with such granularity would increase the complexity of the spread risk computations. Moreover, these portfolios cover only certain types of investments. Currency and Country Reference Portfolios We would like to point out that we did not address the issue of country and currency portfolios. We would suggest EIOPA to disregard the country portfolios and compute the capital charge based on the Euro currency portfolio only, otherwise two companies with exactly the same corporate portfolio could have different capital charges when they operate in different countries. Composition Reference Portfolio The fact that reference portfolios cover only certain types of investments was precisely a key point in our	Disagreed. It would not be acceptable to have a European Union framework that would be functional only for exposures denominated in euro.

			proposal. Complex investments would need a rating and would be subject to an internal assessment process as already indicated in the Delegation Regulation.	
54.	Deloitte Touche Tohmatsu	3.4	The reliances on external credit could be further reduced by placing a restriction on the recency of the external credit ratings is. The Directive prescribes that in the case of more than two available credit assessments, the undertaking may use the rating generating the second lowest capital requirement. There may be some bias if multiple credit ratings are available to select from. We suggest, with the aim of reducing selection bias, that the median credit assessment is preferred to the one generating the second lowest capital requirements in the case of multiple credit assessments. We welcome the on-going work noted in paragraph 90, regarding work to further assess the possibility to extend the framework to assessments provided by commercial and/or non-commercial third parties in the context of the second call for advice. The use of official credit ratings agencies is key in many undertakings' risk assessments, but there are undertakings which require more bespoke assets and counterparties to be rated, as noted in this consultation (for example mortgages,	Disagreed. It is not clear from the response what would be the bias. The regulation provides that the second most prudent rating should be used. Noted. Please also see EIOPA's next consultation paper on unrated debt.

			personal loans, or unrated debt). EIOPA should consider how such internal ratings would achieve compliance in a consistent manner across (re)insurance undertakings and member states. We also welcome the assessment in paragraph 109 that where external firms provide ratings, (re)insurance undertakings should be able to evidence their understanding of the rating process as part of their Prudent Person Principle. We do not believe that requiring (particularly smaller) undertakings to form internal credit ratings for all counterparties is proportionate and consider that this approach would cause smaller undertakings significant difficulty and/or cost. We welcome the decision in paragraph 147 that EIOPA advises not to further extend internal rating approaches as this stage.	
55.	Dutch Association of Insurers	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.	Disagreed. The Solvency II and CRD ratios provide useful information to assess the solvency of undertakings. However, this information needs to be supplemented by qualitative information to be in a position to perform a global assessment of the solvency of the undertaking. In order to assess the credit quality of undertakings, the same qualitative information are needed and therefore an automatic rule does not appear appropriate to EIOPA.

56.	Royal Dutch Actuarial Association	3.4	We would like to highlight the importance to seek consistency with the banking regulation (CRR/CRD), also taking into account current and future developments, e.g. under Basel IV.	Noted.
57.	AAE	3.4.2	Paragraph 129: we would recommend adding whether this assessment should be performed one point in time or be revised depending a.o. on the modified duration of unrated bonds or under extreme predefined conditions.	Agreed. This assessment is to be repeated each time the undertaking is willing to use the simplified calculation. In case where characteristics of its portfolio under the scope of the simplified calculation have changed, then a deeper re-assessment would be expected. This can be clarified in the advice.
58.	AMICE	3.4.2	In Paragraph 147 EIOPA indicates that new guidance will be issued in order to « ascertain » a robust and sound internal credit assessment. Can EIOPA provide more information about the planning delivery of such guidance and how it will be issued?	Noted. EIOPA will produce this guidance in due course.
59.	Dutch Association of Insurers	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?	Noted. EIOPA means that internal credit assessment should not always be mandatory but rather undertakings should be encouraged to perform these assessments. EIOPA will produce this guidance in due course.
60.	Insurance Europe	3.4.2	Paragraphs 113 to 117	Noted. Please see EIOPA's next consultation

			Please refer to comments on paragraph 90. Paragraphs 118 to 131 Insurance Europe welcomes EIOPA's proposal around the use of ECAIs for standard formula users and, in particular, enabling insurers to transpose a CQS3 rating to parts of their debt portfolio, not covered by contracted ECAIs. Insurance Europe agrees that this may lead to a reduction in costs for insurers and reduce the duplication of ratings (where standard contracts cover overlapping parts of insurers' portfolios). However, Insurance Europe notes that instead of being considered a simplification under Article 88, the proposal should be reframed as a general rule, applicable to all insurers. Under this rule, only the instruments covered by the rule that do not meet the suggested criteria would be classified as non-rated debt (and thus receive CQS 3). Additionally, Insurance Europe believes that EIOPA should review the restrictions which it introduces to the use of the proposed approach, and in particular: ☐ The type of bond allowed (and the restriction to fixed interest bonds only) – insurers invest in a wide variety of corporate bonds, and not only fixed interest ones. For example, floating rate bonds do not represent complex products, yet will not be in the scope of the simplification due to this restriction. If EIOPA believes that non-fixed rate corporate bonds present a	paper on unrated debt. Disagreed. The simplified calculation is justified by the need to reduce the costs that may be disproportionate for some insurance undertakings. By considering this proposal under the framework of Article 88, an assessment of the error that this simplified calculation introduces is performed. Partially agreed. EIOPA agrees to extend the simplified calculation to bonds that provide floating interest rates. For loans we disagree: because information is less standardised: the assessment would be made more complex which would restrict the use of the simplified calculation by small

			significantly riskier instruments than fixed rate corporates, it should present evidence to substantiate such conclusions. ☐ The proposal should not automatically exclude plain vanilla (rated) loans or loans with appropriate guarantees/collateral. ☐ A minimum coverage ratio, above which the simplification should apply – please refer to Insurance Europe's comments on paragraphs 143 to 146. EIOPA should note that if overly stringent conditions are applied when attempting to qualify for the proposed treatment, it may end up not being taken up by the market, so potential intended effects may fail to materialise. Insurance Europe considers as inappropriate the exclusion of portfolios with elements of profit participation. This exclusion makes the advice inapplicable for the majority of insurers' investments. Insurance Europe does not see the logic for this condition and suggests to remove it. Paragraph 132 Insurance Europe agrees that a requirement for all insurance companies to develop internal rating procedures would be disproportionate. Additionally, Insurance Europe notes that external credit	undertakings. For a minimum coverage ratio we disagree: the proportionality principle should apply and not a fixed threshold. Disagreed EIOPA received evidence that the cost of ECAI may be disproportionate in the case of very simple assets and for small undertakings. Profit participations undertakings are usually larger undertakings where the cost of ECAI is not disproportionate. Moreover, the business model of a profit participation business undertaking relies on its ability to provide attractive returns with smallest risk possible to the policyholders. A detailed assessment of the credit quality step of the exposures is not seen as a disproportionate burden in that case.

			assessments also have certain advantages over internally produced assessments, including freedom from the perception of bias. Please also refer to comments on paragraphs 97 to 98 Paragraph 133 to 139 Please refer to comments on paragraphs 97 to 98 Paragraphs 140 to 142 Please refer to comments on paragraphs 104 to 107	
61.	Investment and Life Assurance Group (ILAG)	3.4.2	Currently, unrated debt attracts a SCR charge similar to CSQ3 (Article 176(4) of the Delegated Regulations). But the simplification outlined in paragraph 128 imposes a number of conditions in order to use CSQ3. This is an inconsistency which requires further explanation.	Disagreed. Currently, unrated debt is assigned stresses that are in-between CQS3 and 4. See also EIOPA's next consultation paper on unrated debt.
62.	AAE	3.4.3	Paragraph 146: it is too restrictive to exclude as a whole (re)insurance undertakings who provide profit sharing or conduct unit-linked business. A more appropriate approach would be to work at Line of Business level while evidencing the assets covering the liabilities in line with the ALM policy. Typo in paragraph 147: approaches as at this stage. Paragraph 146: Invitation for comments	Agreed. The advice can be modified as suggested.
63.	Allianz SE	3.4.3	Simplified calculation the for spread-risk sub-module and for the market risk concentration sub-module Reading EIOPA's advice one can get the impression that	Agreed. It can be clarified that the simplified calculation is relevant in case undertakings have

			the simplification can only be applied in case exactly one ECAI was nominated (see text number 144 of the consultation paper). For avoidance of doubt it should be clarified that the simplification is not restricted to cases where exactly one ECAI was nominated by the (re)insurer, but is available to (re)insurance undertakings that have nominated one or more ECAIs that cover most of its debt portfolio. Internal credit assessments We do very well understand that EIOPA does not believe it is appropriate to introduce within the Solvency II framework a new approval process for internal credit assessments. However, we have the opinion that the use of ratings, which are acknowledged as part of an approved internal model of a (re)insurance group, would not require an additional approval process and (re)insurance undertakings should be allowed to use such internal model ratings for unrated debt exposures of group entities that calculate the SCR with the standard formula. Such a possibility to reuse internal model ratings for standard formula calculations in the same group should definitely be considered in the on-going work carried out on unrated debt. Postponing a decision on the usage of internal credit assessments for a few years does not	nominated one or more ECAIs. Noted. Please see EIOPA's next consultation paper on unrated debt.

			appear appropriate for cases where a (re)insurance group already has available internal credit assessments from an approved internal model. Market implied ratings and accountancy-based measures We do agree that the usage of pure market implied ratings in the standard formula can indeed raise issues, if one is relying solely on observed credit spreads without consideration of additional elements to avoid pro-cyclicality and volatility of ratings/SCR. However, we do believe that it would be worth to consider an approach where through-the-cycle ratings are adjusted for market implied ratings.	
64.	AMICE	3.4.3	We welcome the advice from EIOPA. However, we feel this should not be considered to be a simplification (Article 88) but as a general rule and it should be applicable to all insurers without any restriction. The criteria listed in Paragraph 144 is very restrictive and would lead to a small subset of firms benefiting from the simplification proposed. Firms should be allowed to nominate one ECAI only, provided their profit participation and unit-linked business is not material. We would request EIOPA to delete the third bullet point from the paragraph. EIOPA asked for input on using a Threshold. Considering that only exposures which are « plain vanilla » and are	Disagreed that it should be considered as a general rule. EIOPA thinks this simplified calculation is justified in certain situations and the assessment of the error it introduces is an important step in the risk management process. Partially agreed. See response to comment 62. Noted.

			eligible under the conditions stated in Paragraph 144 (see above our amendments to Paragraph 144) are allowed, the threshold to be used should be set around 70%.This implies that if a nominated ECAI covers 70% of the total portfolio, the (re) insurance undertaking should not be required to nominate a second ECAI and it should be allowed to calculate the spread risk sub-module and market concentration sub-module as if the assets were of CQS3. 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.	
65.	Association of Financial Mutuals	3.4.3	We agree with the approach proposed and suggest a threshold of 80% coverage by one ECAI should efficiently help to reduce overreliance on too many ECAI's assessments.	Noted.
66.	Deloitte Touche Tohmatsu	3.4.3	This section discussed the introduction of a simplified calculation such that in the case of a "(re)insurance undertaking has already nominated an ECAI that covers most of its debt portfolio", the undertaking should be allowed to calculate its risks as if the assets not covered by the nominated ECAI would be of credit quality step 3. We welcome the proposal of introducing a threshold on the coverage ratio of the debts with ECAI ratings as a proportion of the complete debt portfolio, before a (re)insurance undertaking's debt portfolio is eligible for the simplified calculation.	Noted.

The impact on SCR would be influenced by not only the credit quality step of the unrated bonds, but also the modified duration of those bonds. Bonds with longer duration will be more sensitive to changes in spreads and ECAI ratings than bonds with shorter duration.

Therefore we propose that the overall threshold for using the simplified calculation should be calculated as:

80% plus 1% * modified duration of total assets for which credit ratings are not available.

With a cap of 100%

By applying the above threshold, the expected impact on the spread risk SCR by using a credit quality step of 3, in the event that the actual credit quality is 4 would generally be less than 5%. This spread risk SCR would further be diversified with other market and non market risks so the (potential) impact of mis-statement in the undertaking's overall SCR would not be significant.

The minimum threshold of 80% is consistent with the threshold for using prudent data groupings as per Article 84(3) of the Delegated Regulation, where prudent data groupings cannot be used for more than 20% the total value of the assets of the insurance or reinsurance undertaking.

			Under all circumstances, (re)insurance undertakings should comply with the overarching Prudent Person Principle as defined in Article 132 of the SII Directive, and a credit quality step of 3 shall not be used if there is evidence that the actual credit of the portfolio is lower than 3. Internal ratings could be used if external ratings are not available or obtained. Undertakings may use a credit quality step lower than 3 subject to the Prudent Person Principle.	
67.	Dutch Association of Insurers	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.	Disagreed on first paragraph. See response to comments 60 and 64. Noted.

			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	
68.	Institut des Actuaires (France)	3.4.3	We agree with the proposed simplifications. For further works, the idea of the creation of a public European data set, build under the ECB, would help to reach the aims of EIOPA's proposals.	Noted.
69.	Insurance Europe	3.4.3	Paragraphs 143 to 146 Insurance Europe supports the proposal. Paragraph 144 Insurance Europe supports the simplification EIOPA has put forward, however, it believes that instead of being considered a simplification under Article 88, the proposal should be reframed as a general rule, applicable to all insurers. Insurance Europe would argue that 70% is a sensible cut-off point for applying the approach. However, Insurance Europe believes the suggested conditions (paragraph 144) are too restrictive. Insurance Europe believes the second condition should only apply to material investments.	Noted. Disagreed. See response to comment 60.

			The third condition, stipulating the exclusion of undertakings having liabilities which provide mechanism of profit participations and undertakings conducting unit-linked business, makes the advice inapplicable for the majority of insurers' investments. Insurance Europe does not see the logic for this condition and suggests to remove it. Insurance Europe highlights that the current writing of this paragraph seems to suggest that undertakings that 'provide mechanism of profit participation' and/or 'conduct unit-linked or index linked business' will not be able to use the proposed simplifications at all, even if unit-linked business is only a small part of their product offering. Likewise, the proposed simplification seems to exclude undertakings with a Matching Adjustment from using the simplifications, even for business outside their Matching Adjustment portfolios that would otherwise meet all the criteria. Insurance Europe believes this is not reasonable. Paragraph 147 Please refer to comments on paragraphs 97 to 98. Paragraph 148 See comments to paragraphs 104 to 107.	Partially agreed. For unit-linked business, please see response to comment 62. For matching adjustment portfolios, the knowledge about the credit quality step is an essential part of the process to calculate the adjustment. EIOPA disagrees to include such portfolios in the scope of the simplified calculation.
70.	Investment and Life Assurance Group	3.4.3	We do not believe that requiring (particularly smaller) undertakings to form internal credit ratings for all	Noted.

	(ILAG)		counterparties is proportionate and would cause them significant difficulty and cost. We accept that this may be appropriate for large undertakings, including those on internal models, but that NSAs will need to monitor these closely to ensure comparability across the market and, indeed, EIOPA will need to ensure a level playing field across member states. We welcome the decision in paragraph 147 that EIOPA advises not to further extend internal rating approaches at this stage.	
71.	KPMG	3.4.3	The proposed simplified approach seems not to significantly decrease the reliance on external credit ratings, which is the aim of the call for advice. The simplification will thereby not reduce the need for undertakings to have ECAI ratings and corresponding contracts and expenses. In case implemented, the type of exposures that are in scope for simplification and requirements should be further clarified and specified, e.g. is the application limited to an exposure amount. There may be asset classes for which the use of simplifications is less appropriate than for others. With regard to the internal credit assessments, we support EIOPA in further investigating this alternative in a later stage, not limited to unrated debt.	Partially agreed. EIOPA believes that the simplified calculation will reduce the reliance on ECAI ratings in some cases. In the absence of concrete proposal, no further specifications will be provided. Noted.
72.	Royal Dutch Actuarial Association	3.4.3	The proposed simplified approach seems not to significantly decrease the reliance on external credit ratings, which is the aim of the call for advice. The simplification will thereby not reduce the need for	See response to comment 71.

			undertakings to have ECAI ratings and corresponding contracts and expenses. In case implemented, the type of exposures that are in scope for simplification and requirements should be further clarified and specified, e.g. is the application limited to an exposure amount. There may be asset classes for which the use of simplifications is less appropriate than for others. With regard to the internal credit assessments, we support EIOPA in further investigating this alternative in a later stage, not limited to unrated debt.	
73.	Insurance and Reinsurance Stakeholder Group (IRSG)	4.1	The IRSG welcomes the changes proposed by EIOPA, which are in line with previous IRSG suggested approaches. The IRSG appreciates in particular the changes around recognising central government and RGLA guarantees in the spread and concentration risk modules, extending the recognition of guarantees for Type 2 exposures (and specifically partially guaranteed residential mortgages) in the counterparty risk module, and recognising RLGA guarantees, not listed in ITS (EU) 2015/2011.	Noted.
74.	Insurance Europe	4.1	Insurance Europe supports the EC's call for advice from EIOPA to investigate the current Solvency II treatment of guarantees and exposures to RGLAs.	1. Noted. 2. Noted.

			Against this background, Insurance Europe supports EIOPA's proposed changes, namely: ☐ Extending the recognition of RLGA guarantees in the spread and concentration risk sub-modules and to Type 2 exposures in the counterparty default risk module. ☐ Recognising partial guarantees in the context of Type 2 exposures in the counterparty default risk module ☐ Recognising RGLA guarantees which are not listed in ITS (EU) 2015/2011 and the associated capital charges However, Insurance Europe expresses caution regarding the approach taken to harmonising the list of qualifying RGLAs between the banking and insurance regulations, as this may introduce an overly granular and rigid approach to determining the equivalence between RGLAs and central governments, contrary to the intention of Article 85 of the Delegated Regulation. Additionally, Insurance Europe supports the spirit of EIOPA's proposed changes to the articles. However, Insurance Europe suggests changes to the LGD formula, a full exclusion from compliance with Article 215 (f), and the deletion of the last sentence of Recital 42 in the Delegated Regulation to avoid confusion.	3. Noted. 4. Rather than deleting article 215(f), EIOPA will advise that guarantees on type 2 mortgages only have to comply with article 215(a-e) and not with 215(f).

75.	AMICE	4.2	In the CRR (575/2013) Article 4 (8) a definition is provided for the public sector in which also government and regional governments are quoted "…to authorities that exercise the same responsibilities as regional governments and local authorities, or a non-commercial undertaking that is owned by or set up and sponsored by central governments, regional governments or local authorities, and that has explicit guarantee arrangements, and may include self-administered bodies governed by law that are under public supervision." The Solvency II legislation should use the same definition, especially the latter part of the definition in order to obtain a "level playing field" with banks. Articles 180(3) and Article 187(4) of the Delegated Regulation should be added to the Legal Basis section of EIOPA's advice to cover the new provision allowing the calculation of the spread risk sub-module and concentration risk sub-module for exposures to Member States' RGLA not listed in the ITS as exposures in the form of bonds and loans to non-EEA central government and central banks of CQS2. Article 191 – Mortgage Loans (Counterparty Default Risk Module) and Article 192 – Loss given default (Counterparty Default Risk Module) should also be added.	1. Disagreed to introduce a public sector definition. (Re)insurance undertakings are mainly exposed to underwriting risk, market risk (risks faced by (re)insurance undertakings depend on both assets and liabilities) whereas the most significant risk to which credit institutions are exposed is the credit risk. In the banking framework, the capital requirement for credit risk is calculated based on an exposure class while in the Delegated Regulation the capital requirement for counterparty default risk is calculated on the basis of a single name exposure. In Solvency II the concept of a single name exposure is broader than a separate exposure class as exposures to undertakings which belong to the same corporate group shall be treated as a single name exposure. 2. Agreed. Appropriate information will be added to the EIOPA advice.

				3. Noted. It has been already covered in the EIOPA advice
76.	KPMG	4.3	We encourage EIOPA to set up a public database, harmonized or combined with EBA, listing all the regional governments and local authorities within the Union which relevant competent authorities treat as exposures to their central governments. However, the list should not be closing and it should be regularly checked if new entries may be nessecary.	Noted. Aligning the RGLA list to the banking regulation would imply modifying the Commission Implementing Regulation (EU) 2015/2011 (ITS). As that is not covered by the review of the Delegated Regulation, any concrete change to the list will be proposed outside of this review.
77.	Royal Dutch Actuarial Association	4.3	We encourage EIOPA to set up a public database, harmonized or combined with EBA, listing all the regional governments and local authorities within the Union which relevant competent authorities treat as exposures to their central governments.	See response to comment No. 76.
78.	Deloitte Touche Tohmatsu	4.4	In principle, we welcome harmonisation of the insurance and banking regulations regarding market risk capital requirements in this area and consider it a sensible approach, on the basis that there is no additional regulatory burden for (re)insurance undertakings.	Noted.
79.	Insurance Europe	4.4		
80.	AMICE	4.4.1	We welcome the advice of EIOPA as mentioned in Paragraph 168 and 169 with respect to the recognition of guarantees and its extension to mortgage loans and real estate.	Noted.

81.	Dutch Association of Insurers	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.	Noted.
82.	Insurance Europe	4.4.1	Paragraphs 168 to 169 Insurance Europe welcomes the advice of EIOPA in paragraph 168 and 169 with respect to recognising guarantees and extending them to mortgage loans.	Noted.
83.	AAE	4.4.2	We do not feel comfortable with the justifications in paragraph 202. Do the CQSs always properly reflect the risk mitigating effect of partial guarantee? Paragraph 203: the current insignificant proportion of partial guarantee in other assets than type 2 mortgage loans is not an appropriate argument for not revising the SCR concentration sub-module. An alignment of the approaches between SCR spread and concentration is more acceptable.	1. Disagreed. In their assessment of the credit quality rating agencies take account of all risk mitigating effects like collateral and also, partial, guarantees. Adjusting the credit quality step upwards for a, partial, guarantee would be double counting the risk mitigating effect. 2. Disagreed. See art. 184(2)(d) of the Delegated Regulation.
84.	AMICE	4.4.2	Aligning the RGLAs list in the Commission Implementing Regulation 2015/2011 with the list of the banking framework 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 EIOPA to engage the industry in this alignment. Table 1 (page 37) indicates that Solvency II recognizes any 'région', 'département' or 'commune'in France as	1. Aligning the RGLA list to the banking regulation might imply modifying the Commission Implementing Regulation (EU) 2015/2011. As that act is not covered by the review of the Delegated Regulation, any concrete change to the list will be proposed outside of this review. However when the changes to the ITS will be introduced there will be also a consultation period.

			RGLA, however they are not recognised as RGLA in the Banking framework. An alignment of both lists should not lead to the derecognition of some RGLAs already listed in the Implementing Regulation 2015/2011 but should rather cover all RGLAs listed by either the insurance or the banking framework.	
			Intermediate treatment for RGLA With respect to the intermediate treatment, we welcome the proposal made by EIOPA to use CQS 2 for eligible exposures not included in the list. However, RGLAs submitted to the intermediate treatment should be allowed as Guarantees to the counterparty default risk sub-module and the market risk sub-module.	2. Disagreed. In the absence of evidence on the appropriateness and materiality, EIOPA does not consider viable to introduce such intermediate treatment in the counterparty default risk module.
			Partial Guarantees are not recognised in the Spread Risk Module 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 RGLAs partially guaranteed exposures, not only mortgage loans, the treatment should apply. For example, SME loans are co-financed by governments and other entities.	3. Disagreed. NSAs' data shows that partial guarantees mainly occur from Member States' central governments and RGLA listed in Commission Implementing Regulation (EU) 2015/2011. Moreover, except the partial guarantees on mortgage loans, exposures with partial guarantees are immaterial.
			In Paragraph 202 EIOPA exempts the use of partially guarantees in the spread risk module based on the assumption that the credit quality step of a bond or	4. See response to comment No. 83.

			loan will already reflect the risk mitigating effect of the partial guarantee. However, this is not the case for non-rated exposures. In the Delegated Regulation collateral values for non-rated debt are allowed and recognised; partial guarantees from Member State central government and RGLA should therefore be recognised.	
85.	Dutch Association of Insurers	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-	1. See response to comment No. 84. 2. Noted. 3. See response to comment No. 84. 4. See response to comment No. 84.

			rated debt are allowed and recognised, this should be extend for the partial guarantees issued by central governments or RGLA.	
86.	Gesamtverband der deutschen Versicherungswirtschaf	4.4.2	Paragraphs 174 to 177 GDV strongly supports EIOPA's efforts in developing a more risk-adequate recognition of guarantees given by RGLAs in the spread and concentration risk sub-modules. The planned amendments to the delegated regulation need to create a level playing field with banks. In addition, refinancing conditions for institutions benefitting from such guarantees can be improved as the insurance industry is an important financing source for them. Paragraphs 178 to 183 GDV welcomes the idea that the RGLA list of Implementing Regulation 2015/2011 needs an update allowing more flexibility on the question which RGLA qualifies for equivalence with central governments. However, any changes to the list should be subject to a close collaboration with the insurance industry as the convergence of the two lists from the insurance and banking industry could be challenging. GDV agrees that the differences between the RGLA list of Commission Implementing Regulation (EU) 2015/2011 and the RGLA list in the banking framework are not justified and need to be removed. However, the alignment of both lists must not lead to the lowest	1. Noted. 2. See response to comment No. 84. 3. See response to comment No. 84. A common definition would result in a single list for both banking and insurance. ITS will be subject to regular view.

			common denominator but instead consider at least all RGLAs already covered by either the insurance or the banking framework. As mentioned earlier such a list always comes with the caveat that it needs regular updates and that there might be situations in which an undertaking invests in an RGLA not yet covered by the list. Consequently, the undertaking would then be unable to benefit from a lower capital requirement. Same is true for an instrument guaranteed by such a RGLA. To eliminate the disadvantage of a quite inflexible list we propose that the new list should be non-exhaustive and there should be the possibility to add RGLAs in close collaboration with the national competent authority. Going forward, EIOPA should regularly update the list with RGLAs that have been approved by national competent authorities in the meantime. As the list in the Commission Implementing Regulation (EU) 2015/2011 currently only covers RGLAs within the EEA undertakings should be allowed to add non-EEA RGLAs as well. This could also be achieved by the introduction of a non-exhaustive list as described above where undertakings are referred to their national competent authorities for an individual assessment of each added RGLA. As things develop EIOPA should supplement the list with non-EEA RGLAs within the scope of regular updates. Excluding non-EEA RGLAs would unnecessarily restrict undertakings' investment options and hamper further diversification of assets. Besides, the delegated regulation does not explicitly exclude non-EEA RGLAs and that's why these need to	4. Aligning the RGLA list to the banking regulation might imply modifying the Commission Implementing Regulation (EU) 2015/2011. As that act is not covered by the review of the Delegated Regulation, any concrete change to the list will be proposed outside of this review. Moreover, which NSAs would be accepted to provide the respective evidence that non-EEA RGLA fulfils art. 85 of the Delegated Regulation?

			be considered in the European Commission’s current call for advice. In addition, non-EEA RGLAs of e.g. Canadian provinces benefit from the same treatment as Canadian government bonds under the banking regulation. No change would leave the insurance sector with a disadvantage compared to banks. Paragraphs 184 to 191 Based on the delegated regulation and EIOPA’s proposal we assume RGLAs not on the list, either EAA or non-EEA, will be subject to the intermediate treatment and therefore benefit from a lower capital requirement as proposed by EIOPA. Please provide clarification on the treatment of non-EEA RGLAs with respect to supplements of the list and intermediate treatment. Paragraphs 192 to 208 GDV fully agrees with EIOPA that the recognition of full and partial guarantees from central governments and RGLAs in ITS (EU) 2015/2011 should be extended to Type 2 exposures in the counterparty default risk module. Nevertheless, there are also good reasons to recognise partial guarantees in spread risk module. Partial guarantees are the only contract design which is allowed for state agencies in, e.g., the Netherlands and Italy. Even if there is currently no liquid market for bonds with partial guarantees by member states or RGLAs, this might change, in particular if EIOPA decides to introduce a recognition of partial guarantees for these instruments. This would further foster the success	 5. EIOPA proposal concerns only EEA RGLAs. 6. See response to comment No. 84.

			of infrastructure project bonds which are partially guaranteed by the European Investment Bank (EIB) as well as other initiatives aimed at improving the financing of the real economy. Recognizing partial guarantees is a prerequisite that these bonds can benefit from a more risk-sensitive valuation under Solvency II and rise in investor preference. EIOPA should therefore put more emphasis on the positive effect the recognition of partial guarantees can have on the future growth of such asset classes and arising new investment opportunities for undertakings. Referring to the currently relatively low volume of instruments with partial guarantees in undertakings' investment portfolios therefore seems to be no valid argument.	
87.	Insurance Europe	4.4.2	**Paragraphs 174 to 177** Insurance Europe strongly supports EIOPA's recognition that the current definition of guarantees issued by RGLAs is not appropriate in the Solvency II regulation. Therefore, Insurance Europe supports EIOPA's advice to extend this recognition to the market risk module, namely in the spread and concentration risk sub-modules. Such a recognition will materially improve the extent to which RGLAs are appropriately recognised in the SCR calculation, given that, as EIOPA indicates, most of the debt guaranteed by RGLAs falls in fact within the scope of the market risk module. In addition to EIOPA's proposed measures for recognising RGLA guarantees, stated out in paragraph 226 of the consultation paper, and in order to avoid possible confusion, Insurance	1. Partially agree. Recitals cannot be removed from the Regulation. Moreover, EIOPA considers in this advice direct exposure, since it is where evidence has been collected and analysed.

			Europe proposes that the last sentence of Recital 42 in the Delegated Regulation is deleted as follows: *"When setting up lists of regional governments and local authorities, EIOPA should respect the requirement that there is no difference in risk between exposures to these and exposures to the central government in whose jurisdiction they are established because of the specific revenue raising powers of the former and that specific institutional arrangements exist, the effect of which is to reduce the risk of default. ~~The effect of the implementing act adopted pursuant to Article 109a(2)(a) of Directive 2009/138/EC relating to these lists is that direct exposures to the regional governments and local authorities listed are treated as exposures to the central government of the jurisdiction in which they are established for the purposes of the calculation of the market risk module and the counterparty default risk module of the standard formula.~~"* Insurance Europe agrees with EIOPA's justification that due to the requirements on equivalence between central governments and RGLAs in terms of revenue raising powers, as laid out in Article 85 of the Delegated Regulation, exposures to debt guaranteed by entities listed in Implementing Regulation (EU) 2015/2011 should receive the same capital charge as exposures to central government. **Paragraphs 178 to 183** As a preliminary view, Insurance Europe supports the approach to devising the list, taken in Implementing Regulation 2015/2011 (complementing the Solvency II Directive), which	2. Noted. 3. See response to comment No. 84.

			allows for broader RGLA categories and is more "principle-based". This allows for some flexibility in determining the RGLAs that qualify for equivalence with central governments. Against this background, Insurance Europe would like to urge EIOPA to engage and consult with the industry with respect to any potential alignment work. Furthermore, Insurance Europe agrees that the differences between the RGLA list of Implementing Regulation (EU) 2015/2011 and the RGLA list in the banking framework are not justified and need to be removed. However, the alignment of both lists must not lead to the lowest common denominator but instead consider at least all RGLAs already covered by either the insurance or the banking framework. As mentioned earlier, such a list always comes with the caveat that it needs regular updates and that there might be situations in which an undertaking invests in an RGLA not yet covered by the list. Consequently, the undertaking would then be unable to benefit from a lower capital requirement. The same is true for an instrument guaranteed by such a RGLA. To eliminate the disadvantage of a quite inflexible list we propose that the new list should be non-exhaustive and there should be the possibility to add RGLAs in close collaboration with the national competent authority. Going forward, EIOPA should regularly update the list with RGLAs that have been approved by national competent authorities in the meantime. As the list in the Implementing Regulation (EU) 2015/2011 currently only covers RGLAs within the EEA, undertakings should be allowed to add non-EEA RGLAs as well. This could	4. See response to comment No. 86.

			also be achieved by the introduction of a non-exhaustive list as described above where undertakings are referred to their NCAs for an individual assessment of each added RGLA. As things develop, EIOPA should supplement the list with non-EEA RGLAs within the scope of regular updates. Excluding non-EEA RGLAs would unnecessarily restrict undertakings' investment options and hamper further diversification of assets. Besides, the Delegated Regulation does not explicitly exclude non-EEA RGLAs and that's why these need to be considered in the European Commission's current call for advice. In addition, non-EEA RGLAs of eg Canadian provinces benefit from the same treatment as Canadian government bonds under the banking regulation. No change would leave the insurance sector with a disadvantage compared to banks. **Paragraphs 184 to 191** Insurance Europe supports the introduction of the intermediate treatment in the Solvency II Delegated Regulation, whereby there is recognition of RGLA guarantees which would receive a rating of CQS 2, in line with non-EEA government bonds. Insurance Europe appreciates EIOPA's recognition that a significant portion of RGLA guarantees falls outside the scope of the Implementing Regulation (EU) 2015/2011 (as per EIOPA's materiality assessment to the tune of €42bn). Such a provision would ensure: • A level playing field in financial markets between insurers and banks. Such a level playing field would actually mean a measurement of RGLA risk based on the assets' intrinsic	5. EIOPA proposal concerns only EEA RGLAs.

			characteristics rather than who the asset holder is. Otherwise, the latter may be able to achieve more competitive pricing for RGLA-guaranteed assets, due to a more favourable prudential treatment. • A more accurate reflection of risks, which are currently overstated for RGLA exposures falling outside the scope of ITS (EU) 2015/2011, as they are currently treated as normal corporate bonds without any guarantees. Based on the Delegated Regulation and EIOPA's proposal Insurance Europe assumes that RGLAs not on the list, either EAA or non-EEA, will be subject to the intermediate treatment and therefore benefit from a lower capital requirement as proposed by EIOPA. Insurance Europe would welcome clarification on the treatment of non-EEA RGLAs with respect to supplements of the list and intermediate treatment. **Paragraphs 192 to 208** Insurance Europe supports EIOPA's assessment about the necessity to extend the recognition of full and partial guarantees from central governments and RGLAs in ITS (EU) 2015/2011 to Type 2 exposures in the counterparty default risk module. This is a key step to guaranteeing a level playing field between banking and insurance company investors in relation to mortgages benefitting from a partial guarantee and prevents market distortions, whereby banks can achieve more competitive pricing due to a more favourable prudential treatment.	6. See response to comment No. 83.

			However, Insurance Europe would like to point out that it does not fully agree with EIOPA's assessment in paragraph 202 of its advice, which concludes that partial guarantees are already well-reflected in the market risk module, because they will be accounted for in the exposure's CQS. Insurance Europe would like to point out that while this may be true for rated debt, it is not valid for non-rated exposures. Furthermore, the lack of recognition of partial guarantees is inconsistent with the treatment of eg collateralised unrated issues, which are allowed and recognised, as per Article 176 (5) of the Delegated Regulation. The overall effect is an ineffective risk measurement and an overstatement of risk. Therefore, Insurance Europe would like to extend the recognition of partial guarantees by central governments and RGLAs to the market risk module with respect to non-rated issues. With regard to the recognition of partial guarantees Insurance Europe would also like to draw EIOPA's attention to the fact that this is the only contract design which is allowed for state agencies in eg the Netherlands and Italy. Even if there is currently no liquid market for bonds with partial guarantees by member states or RGLAs, this might change, in particular if EIOPA decides to introduce a recognition of partial guarantees. This would further foster the success of infrastructure project bonds which are partially guaranteed by the European Investment Bank (EIB) as well as other initiatives aimed at improving the financing of the real economy. Recognizing partial guarantees is a prerequisite that these bonds can benefit from a more risk-sensitive valuation under Solvency II.	

			EIOPA should therefore put more emphasis on the positive effect that the recognition of partial guarantees can have on the better recognition of the risk/return profiles of thee assets, which investors fully support. Referring to the currently relatively low volume of instruments with partial guarantees in undertakings' investment portfolios seems to be no valid argument, as this situation may change. Furthermore, Insurance Europe supports EIOPA's intention to relax the requirement for a full guarantee in *Article 215 (f)* of the Delegated Regulation in the context of Type 2 exposures in the counterparty risk module. This partial recognition would improve the risk sensitivity of the Solvency II framework, which currently fails to account for the reduction in risk, arising from an existing partial guarantee. This is illustrated by the case of Dutch residential mortgages, which benefit from a partial central government guarantee. At this point, Insurance Europe would like to highlight three issues regarding EIOPA's proposal for recognising central government guarantees for Type 2 exposures in the counterparty default risk module, such as the Dutch NHG scheme: **LGD proposed formula** In the consultation paper, the following formula is proposed in order to allow for (partial) guarantees under the type 2 counterparty default sub-module: LGD = max(*Loan* - max(80%**Mortgage*;*Guarantee*);0)	7. EIOPA defined *Guarantee* as the nominal level that was being guaranteed by the guarantor; if the guarantor would pay the difference between the value of the collateral and the nominal level that is being guaranteed *Guarantee* should reflect both the value of the collateral and the guarantee. Given the

			This formula is problematic and it is very unlikely that it will lead to any change to the capital requirements for mortgage loans guaranteed by the NHG. More specifically: • The NHG guarantee is always partial and meant as a "top-up" above insufficient collateral. • For example, if after default the underlying property held as collateral is sold, and the sales proceeds are insufficient to cover the loan, as per article A1.1 and article B13.2, the NHG guarantee will be the difference between sales proceeds and the loan's nominal value (an English version of the NHG general conditions can be found here). • Taking into account the second "*max(…)*" in the formula above, in practice the "*Guarantee*" term would very rarely exceed the "*80%*Mortgage*" term, making the "*Guarantee*" term useless. • EIOPA's formula also implies that the effect of the property held as collateral and the guarantee are mutually exclusive, which is an incorrect assumption. In the NHG case, the guarantee is effectively complementary to the collateral. The overall effect is that, even though the NHG guarantee clearly reduces the risk for insurance undertakings, the capital charge remains unchanged when the LGD formula proposed in the consultation paper is applied. Therefore, and as an alternative to EIOPA's proposed formula for LGD, Insurance Europe proposes the following formula for	confusion EIOPA will adjust the formula: *LGD = max(Loan – 80%*Mortgage – Guarantee; 0)* where Guarantee is then the nominal value the guarantor will pay in case of default and the value of the residential property held as mortgage equals 80% of its valuation according to Article 198(2) of the Delegated Regulation.

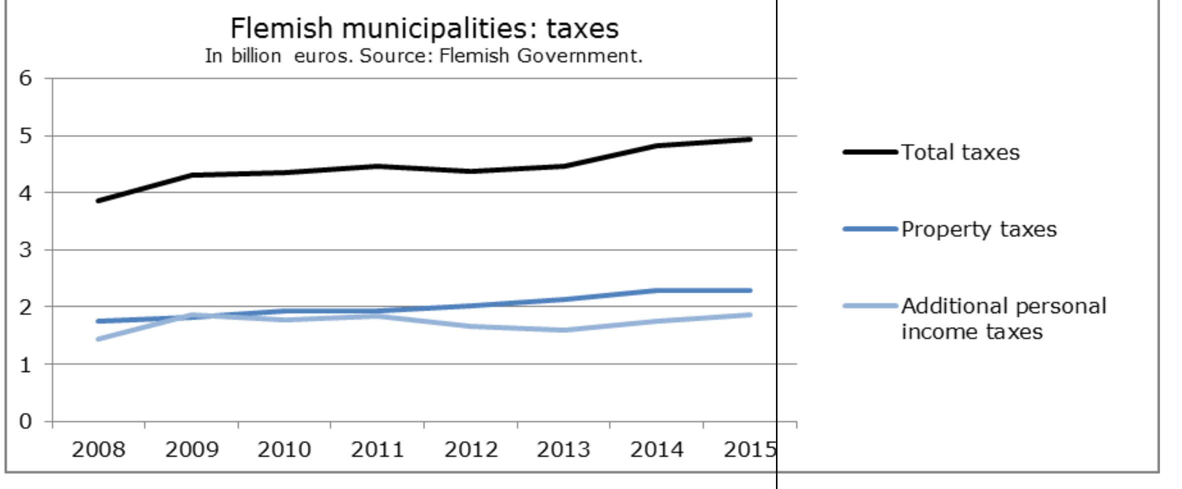
			LGD: LGD = max(*Loan* – (80%**Mortgage* + *Guarantee*);0) This formula effectively recognises the risk-mitigating effect of the NHG and will further lead to a better alignment with Article 235 of the CRR. **Conditions applicable to partial guarantees** In Article 215 of the Delegated Regulation, the following condition for guarantees is imposed: *“(f) the guarantee fully covers all types of regular payments the obligor is expected to make in respect of the claim.”* In the consultation paper, it is proposed that the guarantee should be recognised provided it complies with the requirements of Articles 209 to 215, except for the requirement that it “fully covers …” Under a strict reading of this proposal, the NHG guarantee scheme may still be disqualified. Indeed, in paragraph 198 of the consultation paper, it is stated that “*NHG does not cover all types of regular payments the obligor is expected to make in respect of the claim”.* This entails that article 215(f) should entirely be disregarded, not only the requirement that it “fully covers …”	8. See response to comment No. 74(3).
88.	AMICE	4.4.3	Public sector entity is not defined	1. See response to comment No. 75.

			A proper analysis on the need to provide a definition of the “public sector entities” as established by the CRR is missing. When considering government related exposures, a similar treatment should be available for financial institutions regardless of whether they are subject to CRD/CRR or Solvency II. We reiterate that if a government or related exposure is exempted from capital requirements under the one regime it should also be treated similarly within the other regime. In the CRR (575/2013) Article 4 (8) a definition is provided for the public sector in which also government and regional governments are mentioned. “…to authorities that exercise the same responsibilities as regional governments and local authorities, or a non-commercial undertaking that is owned by or set up and sponsored by central governments, regional governments or local authorities, and that has explicit guarantee arrangements, and may include self-administered bodies governed by law that are under public supervision.” The Solvency II legislation should use the same definition, especially the latter part of the definition in order to obtain a level playing field with the banking sector. When assessing the appropriate risk weighing, the CRD	

			makes a distinction between 1) government exposures, 2) regional governments, 3) other public-sector exposures. This differentiation is not done within Solvency II. A similar categorisation should be done for Solvency II in accordance with the CRD IV. These categories could subsequently reflect the actual risk characteristics of the counterparties and the extent in which these are guaranteed by the government. Article 116 of the CRD IV also uses a distinction in duration of exposures to public institutions. If the exposures are less than three months the risk weighing is reduced to 20%. A similar treatment should be made available for Solvency II. Especially based on the 12 months-time horizon these exposures will be more sensitive to default risk than the volatility of spreads. Therefore, the spread risk module should reflect this. According to Article 116 (4) of the CRD IV "In exceptional circumstances, exposures to public-sector entities may be treated as exposures to the central government, regional government or local authority in whose jurisdiction they are established where in the opinion of the competent authorities of this jurisdiction there is no difference in risk between such exposures because of the existence of an appropriate guarantee by the central government, regional government or local authority." If the competent authorities assume this the case for the one regime it should also be made available for the other	

			regime. Otherwise it would distort the level playing field in possible investment opportunities including the risks associated with the exposures. Furthermore, the CRD IV legislation also provides more categories such as institutions. These are granted a more favourable treatment than normal exposures. EIOPA should apply a same categorisations and treatment when assessing the risk factors under the Standard Formula. Investments by insurers in these type of exposures as mentioned within Article 112 (a)-(f) are typically made to ensure a low risk profile of the exposures. However, the Solvency II legislation does not have a similar categorisation when determining the capital requirements for spread risk (and concentration risk). Guarantees provided by Central Governments to Natural Catastrophe Reinsurers such as CCR in France should be recognised.	2. In this advice, EIOPA proposes to further recognise direct guarantees. Specific national mechanisms are not proposed to be recognised in a standard formula for the average European insurer.
89.	Assuralia	4.4.3	**Aligning the RGLA list in the Commission Implementing Regulation (EU) 2015/2011 with the list of the banking framework** In paragraph 222 of the consultation paper, the following is stated: "The list of RGLA in the Commission Implementing Regulation (EU) 2015/2011 should be aligned with the list of the banking framework…	Noted. EIOPA will consider all evidence available when updating the list. If the RGLA fulfils Article 85 of the Delegated Regulation then it should be treated as a central government.

			Aligning the RGLA list to the banking regulation might imply modifying the Commission Implementing Regulation (EU) 2015/2011." As pointed out in table 1 of the consultation paper, for Belgium, differences exist between the lists of RGLA in Solvency II and the banking framework. Provinces ("provincie" or "province") and municipalities ("gemeente", "commune") are recognized as RGLA in Solvency II, but not in the list published by EBA regarding article 115(2) of regulation (EU) 575/2013. These differences have an impact of €575 million, as noted in table 2 of the consultation paper. As explained in the paragraphs below, Belgian provinces and municipalities fulfill the criteria of article 109a.2(a) of the Solvency II Directive, and should therefore remain listed in the Implementing Regulation (EU) 2015/2011. *Revenue-raising powers* A first criterion to be listed as RGLA is the existence of specific revenue-raising powers, as required under article 109a.2(a) of the Solvency II Directive and article 85 of the Delegated Regulation. In the final report on RGLA (EIOPA-Bos-15/119), it is stated that the RGLA should have the power to set at least one tax rate, where the RGLA itself benefits from the payments of this tax.	

			Municipalities have the power to set tax rates. The graph below presents the amount of taxes raised by Flemish municipalities (sources: Flemish Government (1) and Flemish Government (2)). The main sources of taxes are property taxes ("onroerende voorheffing") and additional personal income taxes ("aanvullende belasting op de personenbelasting"). The total of taxes raised in 2015 amounts to €4.9 billion, representing 40.4% of the total revenue of Flemish municipalities.  Belgian provinces also have the power to set tax rates. The data below present the revenues of the 5 Wallonian	

provinces, according to the budget of 2016 (source: Wallonian Government). The accompanying budget report reads: "Taxes, representing returns of more than EUR 587 million in the initial budget of 2016, are the large majority of ordinary revenues. Depending on the province, 94% up to 99.5% of the taxes emanate from additional property taxes.

€ million	Brabant Wallon	Hainaut	Liège	Lux.	Namur	Total	Total %
Taxes	74	206	182	55	69	587	59.6%
Fund for provinces	12	64	35	13	22	145	14.8%
Education revenues	6	64	28	6	6	110	11.2%
Other revenues	13	47	42	19	21	142	14.4%
Total	105	382	288	92	119	985	100.0%

Specific institutional arrangements

			A second criterion to be listed as RGLA is the existence of specific institutional arrangements, as required under article 109a.2(a) of the Solvency II Directive and article 85 of the Delegated Regulation. According to the final report on RGLA (EIOPA-Bos-15/119), a sufficient condition is that the budget of the RGLA is supervised by an authority that is considered of the same risk as the central government (either the central government or another RGLA in the ITS). The multiannual plan of municipalities, as well as their budget and modifications to their budget are supervised by the provinces and the Flemish Government (listed as RGLA in the ITS 2015/2011). This supervision is legally enacted in articles 176-178 of the Decree on Municipalities. Article 176 explains the supervision on the multiannual plan of municipalities: *§1 …the governor of the province can suspend the execution of the multiannual plan and the decision to modify the plan:* *1° if it cannot be sufficiently demonstrated, or solely demonstrated based on fictive information, that the financial equilibrium is safeguarded during the financial years of the multiannual plan;* *2° if the known or expected revenues or costs… of the municipality were fully or partly not taken up in the multiannual budget…* *§3 The Flemish Government takes a motivated decision on the multiannual plan or the modification thereof, laid*	

			down by the council of the municipality. The Flemish Government again lays down the multiannual plan or the modification thereof in the following cases: *1° if it cannot be sufficiently demonstrated, or solely demonstrated based on fictive information, that the financial equilibrium is safeguarded during the financial years of the multiannual plan;* *2° if the known or expected revenues or costs…. of the municipality were fully or partly not taken up in the multiannual budget…* *In the case of 1°, the Flemish Government takes all required measures to restore the financial equilibrium. In the case of 2°, the Flemish Government registers in its official capacity all known or expected revenues or costs…* In article 177 of the Decree on Municipalities, a similar procedure is provided for the budget or modifications to the budget of municipalities. In article 178 of the Decree on Municipalities, it is stated that the supervising government can appoint an external audit committee to verify decisions of the municipality with a financial impact, as well as the municipality's accounting and treasury. In articles 172-173 of the Provincial Decree, similar provisions are laid down with respect to the multiannual plan and the budget of the provinces. The Flemish Government supervises the Flemish provinces, and can	

			suspend or modify their multiannual plan or budget. Similar provisions for the municipalities and provinces in Wallonia are laid down in articles 16, 17, 22bis and 22ter of the Decree organising the supervision on muncipalties, provinces and intermunicipal companies of Wallonia and its subsequent modifications. It thus appears from the legal reference above, that the budget of Belgian municipalities and provinces is indeed supervised by other authorities which are considered of the same risk as the central government. *Conclusion* Belgian municipalities and provinces have revenue-raising powers and are subject to institutional arrangements which reduce their risk of default. In accordance with article 109a.2(a) of the Solvency II Directive and article 85 of the Delegated Regulation, Belgian municipalities and provinces should remain in the list of RGLA. We agree with the prior decision to include municipalities and provinces in the ITS 2015/2011 and thus believe that no changes to the list of RGLA seem necessary for Belgium.	
91.	Credit Agricole – Corporate and Investment Bank	4.4.3	We would welcome an explanation for why EIOPA sees it as justified that a 'public sector entity (PSE)' definition exists under the banking framework, but not under Solvency II. In our view, there is no reason why banking and insurance regulation should differ in this	1. See response to comment No. 75.

			regard. While we acknowledge that a PSE definition would likely be subject to interpretation of national supervisors, we think these authorities would be most competent to assess if an entity should be treated like its central government despite the lack of an explicit guarantee. As this is already working under banking regulation, we would welcome a harmonisation in Solvency II, as we do not see in how far such a difference between banking and insurance regulation should be justified. We welcome that EIOPA concludes that there is no justification for the difference in guarantees issued by RGLA. We welcome that EIOPA concludes that there is no reason why the Solvency II framework is lacking an intermediate treatment for RGLA. However, we would welcome if EIOPA would review the regulatory treatment of RGLA from outside the European Economic Area (EEA) under Solvency II as we still see vast differences between the banking framework and insurance regulation. RGLA from outside the EAA are currently treated like institutions (i.e., as corporates) under Solvency II. While this is the case under banking regulation as well the banking framework allows for a preferred treatment of RGLA from outside the EEA under certain relatively strict conditions (Art. 115(4) CRR). These conditions already take potential differences in risk into account as they	2. Noted. 3. Noted. 4. EIOPA proposal concerns only EEA RGLAs.

			rely on the regulatory treatment in country of the non-EAA RGLA, whereby supervisory and regulatory arrangements have to be at least equivalent to those applied in the EU. In our view, this sufficiently addresses potential differences in risk. We would welcome if EIOPA would advise to align banking and insurance regulation in this regard as it would not only harmonise the regulatory treatment under both frameworks but also make it easier for insurance investors to diversify their portfolio using high-quality exposure from outside the EEA. Given the insurance regulation's strong focus on diversification we believe this would be in line with the framework's underlying intention and rationale. We welcome EIOPA's advice to harmonise the RGLA list in the Commission Implementing Regulation (EU) 2015/2011 and the list of the banking framework. However, we would advise caution when implying that the RGLA list in CIR 2015/2011 should be modified to achieve this aim. As highlighted by EIOPA, the RGLA list in CIR 2015/2011 is broader than under banking regulation. From our understanding, the EBA list is based on information that is slightly older than in the case of CIR 2015/2011 as the EBA compiled its list in 2014, while CIR 2015/2011 was finalised in 2015. Hence, we would welcome a proposal for a joint review by EIOPA and the EBA and, if necessary, national competent authorities to review the differences and take latest developments with regards to Art 85 Solvency II / Art 115(2) CRR (e.g., reform of French regions) into account. In our view, this would also	 5. See response to comment No. 75.

			enable authorities to engage in a discussion about new types of RGLA, which, as EIOPA rightfully pointed out, have not been taken into account under both insurance and banking regulation. In any case, we would advise against aligning CIR 2015/2011 with the list of the banking framework by only amending CIR 2015/2011 as insurance investors already made decisions based on CIR 2015/2011, which would be very difficult to adjust if CIR 2015/2011 were to be amended. In our view, this would not only very likely result in losses for the insurance industry but also have severe implications for the funding access of some RGLA, most notably out of France, where RGLA have relied on the RGLA list from CIR 2015/2011 to increasingly obtain long-term funding. Also, we want to highlight that EIOPA already conducted a consultation with regards to a RGLA list and we understand that the current RGLA list in CIR 2015/2011 is a direct result out of this consultation process. In our view, amending the list after such a process would increase overall regulatory uncertainty as insurance investors would then have to conclude that they cannot even rely on rules defined after public consultation and laid down by the European Commission.	
92.	Dutch Association of Insurers	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 an intermediate treatment.	Noted. According to recital 42 of the Delegated Regulation the effect of the implementing act adopted pursuant to Article 109a(2)(a) of Directive 2009/138/EC is that direct exposures to the RGLA listed are treated as exposures to the central government of the jurisdiction in which they are established for the purposes of the calculation of the market risk module and

			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'.	the counterparty default risk module of the standard formula. This means that direct guarantees from any RGLA would be recognised in the market risk module. Guarantee mechanisms used by e.g. local funding agencies will not be recognised in the standard formula calculations. The Solvency Capital Requirement standard formula is intended to reflect the risk profile of most insurance and reinsurance undertakings and as there are many different guarantee mechanism models: established by governments, self help organizations, some are public private partnerships (PPP) involving the government, introducing guarantee mechanism will not fulfilled standard formula underlying assumptions.
93.	European Association of Public Banks	4.4.3	Proposed treatment of guarantees issued by RGLA (para. 221 and following) EAPB supports EIOPA's preliminary advice (para. 221) according to which guarantees issued by RGLA listed in Commission Implementing Regulation (EU) 2015/2011 should be treated in the same way as the guarantees issued by Member States' central government of the jurisdiction in which they are established in the market risk module. This is justified, since in the aforementioned cases there is no difference in risk between the exposures to the RGLA and the exposures to the central government. Therefore, EAPB would strongly welcome the introduction of the proposed new	1. Noted 2. Noted

			provisions in Article 180 para. 2 and Article 187 para. 3 of the Solvency II Delegated Regulation. This way the same risk would be subject to the same rules. Further, EAPB believes that the proposed intermediate treatment for RGLA currently not listed in the aforementioned Implementing Regulation (para. 223) would be a suitable addition to the Solvency II framework, since the current treatment of such bonds as corporate bonds in the market risk module does not correspond to the actual risk of such exposures. Moreover, this would lead to more risk-sensitive rules in the Solvency II framework and further align the Solvency II framework with the CRR. Exposures guaranteed by local authorities through separate legal entities EAPB would like to highlight that it seems unclear whether EIOPA's proposed treatment of guarantees issued by RGLA (para. 221-223) also applies to specific guarantee mechanisms which are used by some local funding agencies (i.e. a credit institution specialized in financing local authorities being guarantors) in Europe. Local funding agencies sometimes have up to several hundreds of local authorities as their owners. In order to refinance themselves, local authorities i.a. use joint bond issuances via these local funding agencies. Given	 3. See response to comment 92.

			the multitude of owners and the potentially high number of issuances per year (sometimes up to several hundred issuances per year) it is practically not feasible for the participating local authorities to provide separate guarantees for each and every new issuance. Against this background, there are models where local authorities jointly set up a separate legal entity (sometimes also referred to as municipal guarantee board) which is used to bundle the guarantees provided for by the different local authorities. The separate legal entity fully guarantees the bonds' issuances of the named local funding agency. In sum, this means that all bonds which are issued by the local funding agency are fully guaranteed by the separate legal entity. Additionally, the local authorities being members of the separate legal entity are jointly and fully liable for any liabilities of the separate legal entity. This mechanisms used by some local funding agencies could thus be described as a double guarantee mechanism. EAPB believes, that from a risk perspective, there is no difference between the guarantee of the separate legal entity and the additional guarantee provided for by the local authorities. This also seems to be the underlying rationale of the CRR, according to which such structures are often treated as exposures to public sector entities (Article 116 para. 4) and thus, can receive the same capital treatment as the respective central government.	

			Consequently, EAPB would ask EIOPA to clarify in its final advice to the Commission, that such structures are also captured by its proposals on the treatment of guarantees by RGLA. This would help to avoid legal uncertainty and potentially different interpretations by supervisory authorities. Differences between the RGLA list in the Commission Implementing Regulation (EU) 2015/2011 and the RGLA list in the banking framework EAPB supports the view, that the existing differences between the list according to Article 115 para. 2 CRR and the list in the Solvency II Implementing Regulation create an unlevel playing field between credit institutions and insurance undertakings. Thus, EAPB supports EIOPA's intention (para. 222) to harmonise the two lists in close cooperation with the EBA. EAPB furthermore supports the view that harmonization across Europe should take place as well in order that investments in RGLA bonds issuances of different countries with same risk should benefit from the same treatment.	4. Noted.
94.	Gesamtverband der deutschen Versicherungswirtsch af	4.4.3	Paragraphs 221 to 222 GDV strongly supports EIOPA's advice, however, undertakings and national supervisors need more flexibility on deciding which RGLAS qualify for a lower	1. The update of the list will be publicly consulted.

			capital requirement. The new list should therefore be non-exhaustive. Treatment of non-EEA RGLAs needs to be clarified (see further comments in 4.4.2). Paragraph 223 GDV welcomes EIOPA's idea of introducing an intermediate treatment. Especially with exhaustive RGLA lists that still exclude non-EEA RGLAs undertakings could at least benefit from a certain degree of capital requirement relief. However, the more up-to-date the list is and the more flexibility undertakings and national supervisors will have in adding new RGLAs the less there is the need for an intermediate treatment. As a next step EIOPA should therefore extend the list by including non-EEA RGLAs and develop a non-exhaustive list (see further comments in 4.4.2). Paragraph 225 GDV appreciates the recognition of partial guarantees. Nevertheless, restricting these to type 2 mortgage loans in the counterparty default risk module seems too strict. EIOPA should consider extending the recognition to the spread risk module where appropriate, e.g., infrastructure bonds partially guaranted by the European Investment Bank (see further comments in 4.4.2).	 2. See response to comment No. 84. ITS will be subject to regular view. 3. See response to comment No. 84 (3).
95.	Institut des Actuaires	4.4.3	We agree	Noted.

	(France)			
96.	Insurance Europe	4.4.3	Paragraphs 210 to 225 Please refer to Insurance Europe's comments on paragraphs 174 to 207.	Noted.
97.	KPMG	4.4.3	We agree with EIOPAs advice. We encourage EIOPA to continuously seek for consistency with the banking regulation with regard to the treatment of RGLA guarantees and exposures guaranteed by a third party by aligning the list of RGLAs in Commission Implementing Regulation (EU) 2015/201 and the list from the banking framework. This will lead to the treatment of the respective guarantees being treated as guarantees issued by the member states central governments of the jurisdiction in which they are established. We also aggree with the suggestions as regards the intermediate treatment for « non-listed « RGLA, the treatment of guarantees from member states central governments an RGLA on type 2 mortgage loans and the treatment of partial guarantees (leading i.a. to the regocnition of Nationale Hypotheek Garantie (NHG) as an eligible guarantee as if it were guaranteed by the central government).	Noted.
98.	Royal Dutch Actuarial Association	4.4.3	We encourage EIOPA to continuously seek for consistency with the banking regulation with regard to the treatment of RGLA guarantees and the treatment of the Nationale Hypotheek Garantie (NHG).	Noted.
99.	AAE	4.4.4	Paragraph 226: we would recommend making clear	1.Agree

			that the requirement w.r.t. to fully coverage we refer to is the one under article 215 (f) only. So "The guarantee referred to in point (c) should be recognised provided it complies with the requirements of Articles 209 to 214, except for the requirement that it "fully covers…" as stated in Article 215 (f). We would also recommend further guidance on the valuation of partial guarantees, including those listed in paragraph 167.	 2. These guarantees are outside the scope of the CfA.
100.	AMICE	4.4.4	The formula on the LGD for mortgage loans is problematic and would have to be amended in order to properly reflect partial guarantees.	See response to comment No. 87(7).
101.	Assuralia	4.4.4	**Partial guarantees and guarantees under the type 2 counterparty default sub-module** In the consultation paper, the following formula is proposed in order to allow for (partial) guarantees under the type 2 counterparty default sub-module: LGD=max(loan-max(80%*Mortgage;guarantee);0) Although we fully support the intention to allow capital charge reductions for (partially) guaranteed mortgages, we would like to point out the following remarks with respect to the formula for LGD proposed in the consultation paper: *Applicability to the NHG* As stated in paragraph 193 of the consultation paper, most of the type 2 exposures which have guarantees by Member States' central governments are the Dutch residential mortgages loans ("Nationale Hypotheekgarantie" or NHG). It is	1. See response to comment No. 87(7). EIOPA's intention was to advice the alternative proposal and will adjust the formula for clarification.

			however very unlikely that the formula for LGD, proposed in the consultation paper, will lead to any change to the capital requirements for mortgage loans guaranteed by the NHG. Indeed, the NHG shows the following main features: • The amount paid out in case of default is at most the difference between the nominal value and the value of the collateral, as stated in article A1.1 of the NHG general conditions. • For loans concluded as of 1/1/2017, the guarantee is set at 90 percent of the remaining notional at default, as stated in article B13.2 of the NHG general conditions. These features entail that the guarantee will inevitable be lower compared to the value of 80% of the collateral. Even though the NHG guarantee clearly reduces the risk for insurance undertakings, the capital charge remains unchanged when the LGD formula proposed in the consultation paper is applied. *Differences between Solvency II and the CRR* EIOPA has concluded that the differences in recognition of partial guarantees under Solvency II and the banking framework are not justified for mortgage loans (paragraph 200 of the consultation paper). We fully support this conclusion. However, the formula for LGD proposed in the consultation paper will lead to very different results compared to the approach for partial guarantees currently applied under the CRR. Under the CRR, partial guarantees for mortgages are effectively recognized and lead to a reduction in capital requirements.	

			Indeed, under article 235 of the CRR, the risk-weighted exposure is calculated as: max {exposure – guarantee}*(risk weight obligor)+guarantee*(risk weight guarantor) For mortgage loans which are sufficiently covered by collateral, the risk weight of the obligor is reduced to 35% (article 125 of the CRR). As such, under the CRR, the risk-mitigating effect of the partial guarantee (article 235) and the risk-mitigating effect of collateral (35% risk weight, article 125) are recognised cumulatively. The formula for LGD proposed in the consultation paper differs heavily from the approach of the CRR. Indeed, in the proposed formula for LGD, the effect of collateral (80%*Mortgage) and the effect of the partial guarantee are mutually exclusive: max(80%*Mortgage;guarantee) In the case of the NHG, it is very likely that the risk-mitigating effect of the guarantee will be disregarded in the formula above. As such, a significant difference between Solvency II and the CRR will remain. *Proposed alternative* As an alternative to the formula for LGD mentioned in the consultation paper, the following formula for LGD is proposed: LGD = max(Loan – (80%*mortgage + guarantee);0) This alternative formula effectively recognises the risk-mitigating effect of the NHG and will lead to a better alignment with article 235 of the CRR. *Conditions applicable to partial guarantees* In article 215(f) of the Delegated Regulation, the following	2. See response to comment No. 74(3); instead of deleting 215(f) EIOPA advice to allow for

			condition for guarantees is imposed: "(f) the guarantee fully covers all types of regular payments the obligor is expected to make in respect of the claim." In the consultation paper, it is proposed that the guarantee should be recognised provided it complies with the requirements of Articles 209 to 215, except for the requirement that it "fully covers …" Under a strict reading of this proposal, the NHG guarantee scheme may still be disqualified. Indeed, in paragraph 198 of the consultation paper, it is stated that "NHG does not cover all types of regular payments the obligor is expected to make in respect of the claim". This entails that article 215(f) should entirely be disregarded, not only the requirement that it "fully covers …" **Guarantees issued by RGLA** We fully support the introduction of new provisions in Articles 180 and 187 in order the recognize guarantees issued by RGLA. In order to avoid confusion, we also propose to delete the last sentence of recital 42: "When setting up lists of regional governments and local authorities, EIOPA should respect the requirement that there is no difference in risk between exposures to these and exposures to the central government in whose jurisdiction they are established because of the specific revenue raising powers of the former and that specific institutional arrangements exist, the effect of which is to reduce the risk of default. ~~The effect of the implementing act adopted pursuant to Article 109a(2)(a) of~~	partial guarantees on type 2 mortgage loans if they meet the requirements of 215(a-e). 3. Recitals cannot be deleted and EIOPA's advice is limited to direct exposures.

			~~Directive 2009/138/EC relating to these lists is that direct exposures to the regional governments and local authorities listed are treated as exposures to the central government of the jurisdiction in which they are established for the purposes of the calculation of the market risk module and the counterparty default risk module of the standard formula.~~"	
102.	Bundesverband Öffentlicher Banken Deutschlands (VO	4.4.4	We explicitly appreciate that in its first set of advice to the European Commission published on 4 July 2017 EIOPA follows our request in respect to the treatment of exposures which are guaranteed by regional governments and local authorities (RGLA) in the market risk module. We welcome that the treatment of guarantees issued by RGLA should be the same as the treatment of guarantees issued by the Member State's central government of the jurisdiction in which they are established (cf. para 221). We consider this amendment to be justified, since in the aforementioned cases there is no difference in risk between the exposures to the RGLA and the exposures to the central government. Therefore we support the introduction of new provisions explaining the market risk module in Articles 180(2) and 187(3), based on the existing provision for the counterparty default risk module in Article 199(11): "Exposures unconditionally and irrevocably guaranteed by counterparties listed in the implementing act adopted pursuant to point (a) of Article 190a(2) of Directive 2009/138/EC shall be treated as exposures to the Member States' central government." It is our understanding that exposures guaranteed by	1. Noted. 2. Noted.

			regional governments and local authorities could thereby be classified as risk-free for the purposes of the standard formula for calculating solvency capital requirements. Concerning the alignment of the two lists of RGLA, according to which exposures are to be treated as exposures to the Member State's central government, we agree that EIOPA seeks close cooperation with the European Banking Authority (cf. para 222). We may point out that in respect to German circumstances the listed RGLA in the banking framework seem to be more complete than the listed RGLA for Solvency II. We therefore would appreciate, if EIOPA recognized the RGLA listed in the banking framework to be preferable when aligning the list of RGLA in the Commission Implementing Regulation (EU) 2015/2011. Consequently, we would appreciate, if EIOPA bore in mind the aforementioned proposals on specific items of the Delegated Regulation in its final advice to the Commission, as well. This would help to avoid legal uncertainty and potentially different interpretations by supervisory authorities.	3. See response to comment No. 76.
104.	Credit Agricole – Corporate and Investment Bank	4.4.4	We welcome EIOPA's proposal for the introduction of new provisions in Art. 180(2) and 187(3) Solvency II.	Noted.
105.	Dutch Association of	4.4.4	226 We welcome the advice of EIOPA in this paragraph.	Noted.

	Insurers		We would like to stress the importance of including both the guarantees from WEW and 'Gemeente garanties'.	
106.	Institut des Actuaires (France)	4.4.4	Ok with the objective that corresponds to a real subject in terms of macro risk on financial stability, retaining a possibility of simplified approach for the insurance when the non-materiality justifies it (not materiality to be justified if not risks taken by the insurance sector in its referentiel but also the impact of the risks arising from the banking sector in its	Noted.
107.	Insurance Europe	4.4.4	Paragraph 226 Insurance Europe supports the spirit of the proposed articles, however, it suggests changes to the LGD formula described above in its comments on paragraphs 192 to 208, a full exclusion from compliance with Article 215 (f), and the deletion of the last sentence of Recital 42 in the Delegated Regulation. Insurance Europe welcomes EIOPA's proposals for consistent treatment of RGLAs over the counterparty default, spread and concentration risk modules.	See response to comment No. 74(4), 87(1), 87(7).
108.	KPMG	4.4.4	We agree with the proposed changes of the Delegated Regulation. However, we suppose that EIOPA should also pay attention to a possible extension of the provision of art. 180 paragraph 10 on guaranteed type 1 securitisation positions : Currently the stress release to 0% is only applicable on guarantees provided by the European Investment Fund or the European Investment Bank. Economically guarantees by other institutions or non –	Disagreed. NSAs' data shows that guarantees mainly occur from Member States' central governments and RGLA listed in Commission Implementing Regulation (EU) 2015/2011. The Solvency Capital Requirement standard formula is intended to reflect the risk profile of most insurance and reinsurance undertakings not each case.

			EEA central governments and central banks may lead not to an identical but a very similar risk reduction effect ; so one might wonder if a reduced (even if not 0%) is appropriate in these cases too.	
109.	Royal Dutch Actuarial Association	4.4.4	We agree with the advice to recognise the Nationale Hypotheek Garantie (NHG) as an eligible partial guarantee.	Noted.
110.	Insurance and Reinsurance Stakeholder Group (IRSG)	5.1	The IRSG appreciates EIOPA's analysis of risk mitigation techniques, specifically the areas it identified in its response to the discussion paper. The IRSG welcomes the positive developments made in the proposals to extend recognition for short-term contracts. It further welcomes the proposals to remove the burdensome provisions for partial recognition of risk mitigation provided by a reinsurer temporarily in breach of its SCR. The IRSG further recognises the complexity of adapting the prudential framework to facilitate the introduction and allowance of legitimate risk mitigation techniques. However, the IRSG believes that EIOPA should continue its work in this area to ensure that the prudential regime does not restrict the development, and use, of justifiable risk mitigation techniques, such as Adverse Development Covers and longevity swaps.	Noted.
111.	Insurance Europe	5.1	Insurance Europe welcomes the Commission's request for EIOPA to assess recent developments in risk mitigation techniques and to determine if they are being adequately recognised within the Solvency II framework.	Noted.

			It supports the proposals put forward by EIOPA to refine the restriction on the replacement frequency of risk-mitigation techniques and to alter the requirements for the partial recognition of risk-mitigation provided by a reinsurer temporarily in breach of the its SCR. However, it believes further work is needed to improve the recognition of Adverse Development Covers and Finite Reinsurance. Detailed comments on the analysis and proposals provided by EIOPA can be found in sections 5.3 to 5.4.3.	
112.	AMICE	5.2	EIOPA has performed an analysis for longevity risk transfers but has drawn no conclusion and has therefore not provided any advice.	Disagreed. In paragraphs 237-238 of the consultation paper EIOPA has performed an analysis of the comments received: the comments received confirmed there is no need for changes in the standard formula.
113.	Dutch Association of Insurers	5.2	EIOPA performs an analysis for longevity risk transfers but draws no conclusion or does not provide any advice.	See 112
114.	AAE	5.3	Risk Mitigation Effects: Scenarios Methods (255/267, 269ff.): To achieve the objective to ensure a technically consistent supervisory regime (3) reinsurance should be taken into account in the premium and reserve risk calculations in a meaningful way. We understand that EIOPA does not want to completely overhaul the design of this module nevertheless introducing a scenario approach could still reflect the risk more appropriately	Disagreed: Introducing a scenario approach in the premium and reserve risk calculations would create several difficulties (see par. 272 to 278 of the consultation paper). On ADC: EIOPA will further analyse these non-proportional reinsurance covers and provide its final advice by February 2018.

			without increasing complexity (268). This issue could be addressed by using the same approach as for the non-life natural catastrophe risk module. Here the loss before reinsurance is calculated based on a factor approach while reinsurance is taken into account using the scenarios A and B (e.g. Article 121 1 to 4 for Windstorm of the Delegated Regulation). With this combined method, the concerns raised in 269 to 271 and 274 to 275 could be addressed at least for non-finite reinsurance. Without reinsurance, the results for the factor approach and the combined approach are identical. This addresses the argument raised in 272. Furthermore, we do not see the risk of wrong incentives (276) with the combined approach as undertakings would have to comment on their reinsurance in the ORSA Report and the Actuarial Function Report anyway. Therefore, they would have no incentive to buy reinsurance for the sole purpose of optimizing the Standard Formula. In fact, the current approach actually stipulates wrong incentives as not buying any reinsurance regardless of the own risk profile is promoted. Therefore, this issue should be fixed. Adverse Development covers ("ADC") We want to raise the following objection concerning EIOPA's assessment: Adverse development covers (paragraphs 249-264) – these effectively cap reserve risk. EIOPA have reviewed the proposal for how the standard formula could be adjusted to take account of an ADC and rejected it.	

			They suggest that insurers allow for ADCs by applying for a USP instead. The issue is that the process for applying for a USP can be prohibitively expensive for some, particularly smaller, insurers. ADCs are becoming quite common and there should be an allowance within the SCR to allow for this change. It would not need to be perfect – for example, it could stipulate that the ADC should apply to all reserves within one SII line of business. However, as it stands, smaller insurers who are not equipped to apply for a USP are at a disadvantage, as they are required to hold capital against reserve risk, which, in reality, they are not exposed to.	
115.	Deloitte Touche Tohmatsu	5.3	Adverse Development Covers (“ADC”) We understand EIOPA’s reluctance to allowing ADC use in the standard formula and consider the suggested approach of use of USPs to reflect this risk mitigation technique would be a suitable approach to achieving a proportional outcome on an undertaking-by-undertaking basis.	Noted. EIOPA also recognises that using USPs would not be straightforward.
116.	Gesamtverband der deutschen Versicherungswirtschaf	5.3	Paragraphs 265 to 278 GDV welcomes EIOPA’s admission that a decomposition of risk transfer components would contribute to a more accurate measurement of premium and reserve risk. Therefore, it is not appropriate that finite reinsurance, or similar arrangements, where the lack of effective risk transfer is comparable to that of finite reinsurance, shall definitely not be taken into account for the purposes of determining the volume measures for	Disagree: The decomposition must necessarily be highly subjective so that there is the possibility of a non-harmonised application of the provisions across companies (see par. 271 of the consultation paper)

			premium and reserve risk. We understand that there may be practical impediments to implement a scenario-based approach for the calculation of the premium and reserve risk as a default method. However, it should be up to the insurer to decide whether it is capable and willing to establish a more sophisticated process to determine the components attributable to risk transfer. Hence, the Delegated Regulation should at least provide for an exception clause, subject to the supervisor's approval.	
117.	Insurance Europe	5.3	**Paragraphs 249 to 264** Insurance Europe believes that Adverse Development Covers (ADCs) are a valid and jusitifiable form of risk mitigation and should be appropriately recognised within the Solvency II framework. It appreciates the challenges of incorporating risk mitigation contracts of this nature into the standard formula but is disappointed that EIOPA has dismissed the proposal to include a simple adjustment to the standard formula (option 1 - "RM_other") that would allow to address the non-proportional reinsurance issue to a broader extent than proposing the use of USPs. Insurance Europe continues to believe that option 1 is the most suitable option for improved recognition of reinsurance under the standard formula. **It would like to clarify that this proposal does not require the introduction of a scenario based component under the premium and reserve risk**	On ADC: EIOPA will further analyse these non-proportional reinsurance covers and provide its final advice by February 2018. On other proposals ("RM_other"): EIOPA would not advise on such unspecific proposal. It is also not clear how this term "RM_other" would be calculated without scenarios, which raise difficulties explain in the consultation paper.

			module. It continues to believe that this proposal provides a solution which would make the standard formula sufficiently flexible to allow for the recognition of the effective transfer of risk. Insurance Europe acknowledges that the type of reinsurance cover will determine the complexity of the calculation, should option 1 be implemented (albeit it expects these will not usually be more complex than other calculations within the standard formula). Against this background, Insurance Europe believes that - in addition to implementing option 1 in the Delegated Regulation - complementing guidelines could be helpful for some type of covers in order ensure consistent application and to help undertakings apply the formula. Insurance Europe also notes that this approach would be sufficiently flexible to incorporate future developments, ie accommodate any new types of risk mitigation. Insurance Europe acknowledges the difficulties highlighted **by EIOPA in its analysis of option 2 put forward by the industry**. However, it continues to believe there is merit in this proposal and would welcome further investigation by EIOPA into how this could be developed to meet the needs of standard formula users. Insurance Europe notes that the methodology proposed under option 2 does not (intend to) achieve the same level of accuracy as an internal model, a limitation which applies to other areas of the standard formula. It comments on the concerns raised by EIOPA, based on further analysis:	

			1) <u>Potential double counting because the standard formula's parameters for reserve risk are net of reinsurance and the effect has been already taken into account (in the Reported But Not Settled (“RBNS”) and Incurred But Not Reported (“IBNR”) provisions and the claims paid</u> While the overall number of ADCs in the market is low, ADCs are usually classified as a "large and material transaction" by companies for their portfolio based on the volume of reserves that is covered. Even where the impact of ADCs has been considered for the calibration of the standard formula parameters (based on few companies in the sample that have used ADCs) the impact on the market average is negligible (close to 0). In other words, if a company applies an ADC, the risk transfer from this transaction is almost entirely in excess of the market average utilisation of reserve risk covers. It notes that for a similar reason, adjustment factors for the impact of non-proportional reinsurance on premium risk (ie 80% for three lines of business) have been introduced. As another option to improve recognition of ADCs, EIOPA could propose to introduce similar (fixed) adjustment factors for reserve risk. However, introducing such a factor would create the same issue with risk sensitiveness as currently exists for the premium factor, which is fixed and therefore not risk sensitive. The benefit of option 2 is that it is simple to implement, given that it is a single calculation	

			with only four variables. 2) <u>Potential overestimation of the risk mitigation impact because of modification of the underlying distribution of claims development results and ignorance of alternative equivalent scenarios (derived with the Euler method). EIOPA uses a quantitative example to show the impact</u> Insurance Europe understands EIOPA's concern and the limitations that are inherent to the factor based formula. Under the equivalent scenario as used by EIOPA **the ADC results in a 1,358 loss in basic own funds whereas our suggested approach results in a 1,343 loss in absolute terms.** Insurance Europe would like to highlight that, if the ADC attachment point is changed in EIOPA's example to less than 2,100, the proposed methodology would actually result in a higher SCR for reserving risk than the equivalent scenario methodology. Experience suggests that the gap between best estimate reserves and the ADC attachment point rarely exceeds 5% in capital management driven structures due to capital efficiency (ie the cedent would not be provided with a sufficiently significant capital benefit if the gap between reserves and the ADC attachment point exceeds 5% of best estimate reserves). Below is the table that shows the sensitivity of the difference between the SCR for reserving risk	

calculated with the methodology that we are proposing and the equivalent scenario using the Euler method:

ADC exit \ ADC attachment	2,000	2,050	2,100	2,150	2,200	2,250	2,300	2,350	2,400
2,400	1.9%	1.6%	1.3%	1.0%	0.8%	0.5%	0.3%	0.2%	0.0%
2,450	2.2%	1.9%	1.6%	1.3%	1.0%	0.8%	0.5%	0.3%	0.2%
2,500	2.6%	2.2%	1.9%	1.6%	1.3%	1.0%	0.8%	0.5%	0.3%
2,550	3.1%	2.6%	2.2%	1.9%	1.6%	1.3%	1.0%	0.8%	0.5%
2,600	3.6%	3.1%	2.6%	2.2%	1.9%	1.6%	1.3%	1.0%	0.8%
2,660	0.8%	0.4%	0.0%	-0.3%	-0.6%	-0.9%	-1.1%	-1.4%	-1.6%

Delta reserves - ADC attachment (% nominal reserves)	0.0%	2.4%	4.8%	7.0%	9.1%	11.1%	13.0%	14.9%	16.7%

Insurance Europe therefore believes that the methodology it is proposing is more conservative than the equivalent scenario methodology for most structures.

3) Other issues with the appropriateness of the simple method, ie impact of some dependencies on the effectiveness of the cover:

- **Attachment point**: Insurance Europe agrees that the attachment point has an impact on the level of risk transfer; this issue can be addressed by stipulating a maximum attachment point level (eg ADC attachment should not be too far out of the money) and an exit level of: BE reserves x (1 + 3 x reserving risk factor).

			This would also ensure that the methodology always results in a more conservative SCR than the equivalent scenario methodology. • **Percentage of reserves under the cover**: Typically, the volume of reserves that is covered under an ADC is not less than 50% - 70%. Therefore, the effectiveness of the cover in this respect is not an issue. • **Diversification/business mix of the undertaking:** Insurance Europe proposes to apply the cover pre-diversification, so the formula considers the impact of the diversification according to the assumptions of the standard formula. In this respect our method is not different from existing standard formula methods for other types of reinsurance, eg prospective XL treaties. Under current USP methods, most ADCs with an attachment point above the BE reserves will not be adequately reflected, for example an ADC that would cap the expected loss under an adverse development that is expected to happen with a frequency of less than 1 in 10 years at the level of the impact that a 1 in 10 years event would have. **Paragraphs 265 to 278** Insurance Europe welcomes EIOPA's admission that a decomposition of risk transfer components would contribute to a more accurate measurement of premium and reserve risk. Therefore, it believes that it is not appropriate that finite reinsurance, or similar arrangements, where the lack of effective risk transfer is comparable to that of finite	

			reinsurance, shall not be taken into account for the purposes of determining the volume measures for premium and reserve risk.	
118.	Investment and Life Assurance Group (ILAG)	5.3	We agree with the assessment set out in paragraphs 243 and 244. Recognising risk management techniques with material basis risk cannot be justified. Paragraph 247, we support the suggestion that the risks of a counterparty default are already covered in the SCR calculation.	Noted.
119.	KPMG	5.3	In the context of feedback statement on the main comments we would have expected that answers respectively advices are included, e.g. to the comments mentioned in par. 233 and 235. paragraph 251 : « ADT » should be « ADC » paragraph 264 : Could EIOPA give more detailed guidance than « Adjustments to the data are possible » ? What kind of adjustments are allowed, particularly when there is a lack of historical data experience with the ADC in place ?	Agreed. By "adjustments to data re possible" EIOPA is referring to Annex XVII C(2)(c) and D(2)(f) of the Delegated Regulation
120.	Munich Re	5.3	Paragraphs 233 and 293 We would welcome a clear definition of financial risk-mitigating techniques. It is not completely clear which derivatives should be treated as a risk-mitigating contract. We currently distinguish between derivatives that are used for exposure steering and for risk-	Agreed. EIOPA considers it necessary to provide clarification on what constitutes risk-mitigation techniques. For the further discussion please see the draft advice on simplification of the counterparty default risk.

			mitigation. Futures (referred to in paragraph 293) are, in our opinion, no risk-mitigating instruments but "normal" exposure used for exposure steering. We are looking forward to EIOPA's further considerations in this regard and its further proposals on the counterparty default risk, which are announced by EIOPA for its second set of advice. We expect further explanations which exposures need to be considered as risk-mitigating instrument in the counterparty default risk module.	
121.	Reinsurance Advisory Board (RAB)	5.3	**Adverse Development Covers ("ADC")** **General remarks:** The RAB considers Adverse Development Covers (ADCs) a valid and justifiable form of risk mitigation that effectively addresses companies' reserve risk mitigation and that is more and more widely used in the market. It should be appropriately recognised within the Solvency II framework. In the RAB's view the suggested *"RM_other"* in paras 252/253 adequately addresses all reinsurances structures which are not explicitly reflected by the standard formula (ADC, finite reinsurance, complex aggregate covers, etc). Subject to below more detailed input, RAB encourages EIOPA to work further on *"RM_other"* which follows an adequate contract-by-contract approach for ADCs and other types. **(250)** ADCs can, for example, effectively cap the impact of the expected loss under a 1 in 200 years event stemming from	See 117 for ADC. Disagree: For finite reinsurance, the decomposition must necessarily be highly subjective and on a contract by contract approach (as explicitly said by stakeholders) so that there is the possibility of a non-harmonised application of the provisions across companies (see par. 271 of the consultation paper)

			reserve risk on the undertakings' basic own funds. Currently, only Solvency II internal models (and rating agency models) recognise the risk mitigating impact of ADCs. Hence, the standard formula might provide wrong incentives, eg incentivising undertakings to use less effective cover depending on their situation. **(252-253)** In the RAB's opinion, the method *"RM_other"* continues to be the best option for improved recognition of reinsurance under the standard formula. It should be clarified that this method does not require the introduction of a scenario based component under the premium and reserve risk module, but it more generally provides a solution to make the formula sufficiently flexible to allow for the recognition of risk transfer of effective risk mitigations. Depending on the type of reinsurance, calculations might be more or less complex (albeit, usually not more complex than other calculations under the standard formula, eg for the Cat module). Therefore, in addition to implementing *"RM_other"* in the Delegated Regulation, the complementing guidelines could be helpful for some types of cover to help undertakings and ensure consistent application. Overall, this approach would also be more open to upcoming extensions in the future, eg to accommodate any new types of risk mitigations. **(256)** RAB highly appreciates that EIOPA considers the proposed method for ADCs in its draft advice and has provided detailed feedback. EIOPA has further identified some issues which RAB would like to address in this note. Firstly, it should be clarified that the proposed standard formula method does	

			not (intend to) achieve the same accuracy level as an internal model but this limitation applies for many other areas of the standard formula as well. It is understood that for this reason, the standard formula generally uses conservative assumptions and the calibration is prudent. RAB would like to demonstrate in its response that the method is consistent with these prerequisites and show some options for amendments so that it will better meet EIOPA's expectations while avoiding complexity to be added to the standard formula. **(257)** <u>Potential double counting because the standard formula's parameter for reserve risk are net of reinsurance and the effect has been already taken into account in the Reported But Not Settled (“RBNS”) and Incurred But Not Reported (“IBNR”) provisions and the claims paid</u> While the overall number of ADCs in the market is low, ADCs are usually classified as a "large and material transaction" by companies for their portfolio based on the volume of reserves that is covered. Even where the impact of ADCs has been considered for the calibration of the standard formula parameters (based on few companies in the sample that have used ADCs) the impact on the market average is negligible (close to 0). In other words, if a company applies an ADC, the risk transfer from this transaction is almost entirely in excess of the market average utilisation of reserve risk covers. Furthermore, at the times the standard variations were calibrated, ADC was not that common thus the potential risk-reducing effect is inadequately reflected in the standard deviation parameters. The double counting effect is therefore	

			in RAB's opinion neglectable. RAB would like to note that for a similar reason, adjustment factors for the impact of non-proportional reinsurance on premium risk (ie 80% for three lines of business) have been introduced. As another option to improve recognition of ADCs, EIOPA might propose to introduce similar (fixed) adjustment factors also for reserve risk. However, introducing such a factor would create the same issue with risk sensitiveness as currently exists for the premium factor, which is fixed and therefore not risk sensitive. The approach that RAB is proposing is rather simple to implement given that it is a single calculation with only four variables. **(258-262)** Potential overestimation of the risk mitigation impact because of modification of the underlying distribution of claims development results and ignorance of alternative equivalent scenarios (derived with the Euler method). EIOPA uses a quantitative example to show the impact. RAB understand EIOPA's concern and the limitations that are inherent to the factor based formula. Under the equivalent scenario as used by EIOPA **the ADC results in a 1,358 loss in basic own funds whereas RAB's suggested approach results in a 1,343 loss in absolute terms.** It should be highlighted that, if the ADC attachment used in EIOPA's example was changed to less than 2,100, the methodology proposed would actually result in a higher SCR for reserving risk than the equivalent scenario methodology. From experience, the gap between best estimate reserves and the ADC attachment point rarely	

exceeds 5% in capital management driven structures due to capital efficiency (ie the cedent would not be provided with a sufficiently significant capital benefit if the gap between reserves and the ADC attachment point exceeds 5% of best estimate reserves).

Below is the table that shows the sensitivity of the difference between the SCR for reserving risk calculated with the methodology that RAB is proposing and the equivalent scenario using the Euler method:

		ADC attachment								
		2,000	2,050	2,100	2,150	2,200	2,250	2,300	2,350	2,400
ADC exit	2,400	1.9%	1.6%	1.3%	1.0%	0.8%	0.5%	0.3%	0.2%	0.0%
	2,450	2.2%	1.9%	1.6%	1.3%	1.0%	0.8%	0.5%	0.3%	0.2%
	2,500	2.6%	2.2%	1.9%	1.6%	1.3%	1.0%	0.8%	0.5%	0.3%
	2,550	3.1%	2.6%	2.2%	1.9%	1.6%	1.3%	1.0%	0.8%	0.5%
	2,600	3.6%	3.1%	2.6%	2.2%	1.9%	1.6%	1.3%	1.0%	0.8%
	2,660	0.8%	0.4%	0.0%	-0.3%	-0.6%	-0.9%	-1.1%	-1.4%	-1.6%
Delta reserves - ADC attachment (% nominal reserves)		0.0%	2.4%	4.8%	7.0%	9.1%	11.1%	13.0%	14.9%	16.7%

RAB therefore believes that the proposed methodology is more conservative than the equivalent scenario methodology for most structures. RAB would be glad to share the spreadsheet used in this calculation.

(263) <u>Other issues with the appropriateness of the simple method, ie impact of some dependencies on the effectiveness</u>

			of the cover: - **Attachment point**: RAB agrees that the attachment point has an impact on the level of risk transfer; this issue can be addressed by stipulating a maximum attachment point level (ADC attachment should not be too far out of the money) and an exit level of: BE reserves x (1 + 3 x reserving risk factor). This would also ensure that the methodology always results in a more conservative SCR than the equivalent scenario methodology. - **Percentage of reserves under the cover**: Typically, the volume of reserves that is covered under an ADC is not less than 50% - 70%. Therefore, the effectiveness of the cover in this respect is not an issue. - **Diversification/business mix of the undertaking**: RAB proposes to apply the cover pre-diversification, so the formula considers the impact of the diversification according to the assumptions of the standard formula. In this respect, the proposed method is not different from existing standard formula methods for other types of reinsurance, eg prospective XL treaties. **(264)** Most ADCs with an attachment point above the BE reserves will not be adequately reflected, for example an ADC that would cap the expected loss under an adverse development that is expected to happen with a frequency of less than 1 in 10 years at the level of the impact that a 1 in 10 years event would have.	

			Finite reinsurance RAB appreciates that EIOPA considers previous comments shared on the so-called "finite reinsurance" and would like to reiterate that the classification of a contract as finite reinsurance should not be based solely on formal criteria. The RAB would consider this to be a non-feasible objective. Instead, the substance of the contract should be the crucial factor, in line with the principle of prominence of substance over form in the accounting standards. Auditors and regulators have been following the "substance over form" rules now already for years and therefore an undertaking's subjective assessment is counterbalanced this way. As a framework based on sound principles, Solvency II should give priority to this approach. Solvency II should not prevent the recognition of state-of-the-art financial solutions and innovation based on a general suspicion over the form of transactions. While it is perfectly reasonable to prevent any benefit from reinsurance for a transaction deprived of any characteristic of effective risk transfer, the "lack of effective risk transfer" has to be assessed for each transaction and it should not be assumed that the presence of a financial component does necessarily impede the possibility of a risk transfer and of determining the part of premiums and reserves that is attributable to the risk transfer component. Indeed, a concrete suggestion on how premiums and reserves could be separated was not proposed because a contract-by-contract approach is considered as the most appropriate solution. RAB considers the approaches presented	

			in paras 252/253 helpful for identifying the risk-mitigating effect.	
122.	Royal Dutch Actuarial Association	5.3	For comment 251 « ADT » should be « ADC ». In our opinion, more detailed guidance is needed than « Adjustments to the data are possible ». What kind of adjustments are allowed, particularly when there is a lack of historical data experience with the ADC in place?	Agree. See response to comment 119 above.
123.	AAE	5.4.2	With rolling hedges it's important to end up to such a clear legal text with a level of guidance that also companies that do not use the hedges 'in day-to-day business' would have the possibility to do the needed actions if needed. It's important that insurers do have the capability to have a level of understanding of the hedging that the hedging program set in motion (in case of solvency ratio declining) is eligible in a way that the impact on the SCR requirement can be achieved. Regarding the realistic recovery plan and the reduction factor referred in 324 seems still to leave a question mark on the process but also might cause pro-cyclicality in case of a SCR breach as re-insurance market is quite widely linked in EU. This might have unexpected consequences to the solvency positions of insurers in times of stressed market conditions.	Disagreed: EIOPA's advice does not stipulate that a weekly adjustment is mandatory. Regarding the realistic recovery plan, the reduction factor is meant to mitigate the pro-cyclicality.
124.	Allianz SE	5.4.2	We understand based on recital (72) of the SII Delegated Regulation that dynamic hedging which relies on future management actions at the time the stress	Agreed. EIOPA will provide further clarification on what constitutes exposure adjustments in its final advice in February. This should also

			occurs should not be eligible for SCR recognition under the standard formula. It therefore seems worthwhile to take up the discussion on separating rolling hedge arrangements from dynamic ones. The statements in text number 302 (EIOPA CP-17/004) could be interpreted in a way that every strategy where the risk-mitigation in an instantaneous shock scenario differs from the risk-mitigation over a longer time period is dynamic and therefore not eligible for SCR recognition under the standard formula. We like to point out that every rolling hedge using options can have this effect depending on the realized path of the underlying. By design the standard formula calculation with its instantaneous shocks will not capture this. We therefore suggest to include a definition of dynamic hedging strategies into the regulatory guidance (see below proposal). Additionally, we suggest to clarify that an analysis of the difference in risk-mitigation by comparison of instantaneous shock vs. 12-months-period could be taken up in a mandatory backtesting assessment before implementing a rolling hedge arrangement. Proposed definition of dynamic hedging: Dynamic hedging is a hedging strategy ☐ which requires a frequent adaption of the hedging instruments according to the hedge target and	allow deciding what is not covered (e.g. dynamic hedging).

			☐ where the risk of the hedge target together with the hedging instruments in place is substantial for an instantaneous shock calibrated on a longer term horizon. Examples for used terms “frequent adaption”: e.g. on daily basis “hedge target”: e.g. a portfolio of equity index-linked insurance contracts “hedge instruments”: e.g. exchange traded equity options and futures “shock calibrated on a longer horizon size”: e.g. equity -40%, calibrated on 1 year horizon	
125.	AMICE	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? Minimum duration EIOPA introduces the requirement for non-traded instruments to have a minimum duration of one month; We question the introduction of a minimum duration. In any case we would like Paragraph 293 to be extended to also cover exposures centrally cleared by an eligible CCP.	Disagreed. The minimum duration for non-traded instruments lowers the frequency with which the risk mitigation has to be adjusted in the absence of exposure adjustments. This reduces the risk that the hedge cannot be “rolled”.

			Rolling Hedges With rolling hedges, it is key to develop a clear legal text with a level of guidance that would allow companies not using hedges on a day-to-day basis to carry out the required actions if needed. Insurers should have a level of understanding that allows the hedging program set in motion (in case the solvency ratio is deteriorating) to be eligible in a way that the risk mitigation on the SCR – capital requirements - can be achieved. Realistic Recovery Plan The EIOPA advice regarding the realistic recovery plan and the reduction factor referred to in Paragraph 324 provides flexibility as to the process to be followed by undertakings; however it might also cause pro-cyclicality when there is a breach on the SCR as the re-insurance market is quite widely interconnected within the EU. This might have unexpected consequences on the solvency position of insurers in times of stressed market conditions.	Agreed. EIOPA will provide further clarification on what constitutes exposure adjustments in its final advice in February. This should also allow deciding what is not covered (e.g. dynamic hedging). Disagreed. Possible pro-cyclical effects are taken into account with the partial recognition depending on the percentage by which the Solvency Capital Requirement is breached.
126.	Dutch Association of Insurers	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?	Noted. Disagreed. Minimum duration for non-traded instruments lowers the frequency with which the risk mitigation has to be adjusted in the absence of exposure adjustments. This

			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.	reduces the risk that the hedge cannot be "rolled".
127.	Gesamtverband der deutschen Versicherungswirtschaf	5.4.2	Paragraphs 281 to 302 GDV supports the overall direction of the clarifications and amendments proposed to the treatment of rolling hedge arrangements. In general, GDV also supports EIOPA's approach to exclude dynamic hedging strategies from the scale of the deductible risk-mitigation techniques. But it seems essential to clearly differentiate between rolling hedge arrangements and dynamic ones. Otherwise paragraph 302 could lead to the result, that every strategy where an instantaneous risk-mitigation differs from a risk-mitigation over a longer period is dynamic. For example the results of option strategies rolled once or twice a year can already differ from an option with a year's maturity depending on the development of its underlying. We therefore propose a legal definition of "dynamic hedging strategies". Dynamic hedging could for example be defined as a hedging strategy i. which would require a frequent adaption (e.g. on	Agreed. EIOPA will provide further clarification on what constitutes exposure adjustments in its final advice in February. This should also allow deciding what is not covered (e.g. dynamic hedging).

			a daily basis) of the hedging instruments (e.g. exchange traded equity options and futures) according to the hedge target (e.g. a portfolio of equity index-linked insurance contracts) and ii. where the risk of the hedge target together with the hedging instruments would be substantial for an instantaneous shock calibrated on a longer term horizon (e.g. equity –40%, calibrated on 1 year horizon). The decision whether a substantially different risk-mitigation effect would be reachable over a longer period (no instantaneous shock) could be taken in a mandatory backtesting assessment before implementing the respective rolling hedge arrangement.	
129.	Insurance Europe	5.4.2	**Paragraphs 281 to 302** Insurance Europe supports EIOPA's introduction of the concepts of "exposure adjustment" and "exceptional exposure adjustments" as they bring further clarity around what valid risk mitigation techniques entail and better reflect the hedging practices of insurers. Insurance Europe also supports EIOPA's relaxation of the 3-month minimum rolling requirement and supports the proposed weekly minimum requirement for exposure adjustments. However, Insurance Europe continues to question the need for a minimum maturity requirement as it	Noted. Disagreed. The requirement of a minimum duration for non-traded instruments lowers the frequency with which the risk mitigation has to be adjusted in the absence of exposure adjustments. This reduces the risk that the hedge cannot be "rolled". EIOPA considers that the full recognition despite renewal risk justifies a "hard" quantitative requirement on the maturity instead of relying on the qualitative criteria set out in Article 209.

			believes the complementary requirements of Article 209 of the Delegated Regulation are sufficient to restrict the recognition of contractual arrangements to those which are justifiable. Despite the above, Insurance Europe believes that the proposed changes would: • Improve the risk sensitivity of the Solvency II framework by enabling insurers to better capture market-standard hedging practices; and • Eliminate artificially created costs for insurers (from having to search for less liquid/less available derivatives to hedge risk). Taken together, these changes would ultimately have a positive effect for policyholders via higher benefits, due to the lower risk & costs to which insurers would be exposed. **Paragraphs 305 to 309** Insurance Europe welcomes EIOPA's appreciation of the practical challenges of meeting the provisions of Article 211 (3) of the Delegated Regulation. Insurance Europe strongly supports the continued recognition of risk mitigation provided by a reinsurer who is temporarily in breach of its SCR. It further agrees that recognition is conceptually problematic if a reinsurer is in breach of its MCR. In fact, it is the MCR, not the SCR, that is designed to be the level of capital below which there are clear risks to policyholders. According to the Solvency II Directive:	Noted. Noted. Agreed. Undertakings should be allowed to recognise in the calculation of the SCR standard formula reinsurance with a reinsurance undertaking that is in breach of its SCR using the reduction factor set out in Article 211(3) of the Delegated Regulation without further conditions for the period set out below. There should be no recognition in case of a breach of the MCR.

			• The SCR is "a risk-sensitive requirement, which is based on a prescriptive calculation to ensure accurate and timely intervention by the supervisory authority ". • The MCR is defined as the "minimum level of security below which the financial resources should not fall". It is, therefore, correct that recognition continues to be allowable where a reinsurer is temporarily in breach of its SCR but not its MCR.	
130.	Investment and Life Assurance Group (ILAG)	5.4.2	Paragraph 309 contains an assertion that it is problematic but does not explain why this is the case. Paragraphs 313 and 314 place a burden on insurance undertakings to make subjective judgements about a reinsurer when they would not have access to all the information needed to do so. This could lead to insurers taking an overly cautious approach, for example by exiting profitable contracts. This would lead to a worsening of the position of a reinsurer that might otherwise be able to restore solvency in an orderly manner. Generally EIOPA's proposals for article 211 do not go far enough. We would propose that the requirement for a realistic recovery plan be removed altogether. We note that there is no assessment of the suggestion set	Noted. If a reinsurer is in breach of its SCR there is a high risk to recognise the reinsurance covers as appropriate risk-mitigation technique Noted. Disagreed. Irrespective of the reflection of credit risk in the capital requirements for a full recognition there should be a high degree of confidence that the provider of protection will be able to meet its obligations. Partial

			out in 247 that the risks are already allowed for in the counterparty default SCR calculation. Nor has there been any consideration regarding the distortion effects of an insurer not recognising reinsurance that it has on its balance sheet. For long term business, reinsurance often reduces an insurer's own funds (in exchange for a decrease in SCR). When reinsurance is artificially de-recognised, the effect would often be to artificially increase an insurer's own funds. This is imprudent and must certainly not have been intended.	recognition is allowed, with the possibility of nearly full recognition if the percentage by which the Solvency Capital Requirement is breached is small.
131.	Royal Dutch Actuarial Association	5.4.2	We do agree with the ultimate advice, but the statement made in 218 is not generally true. A higher rolling frequency may reduce the renewal risk as counterparties are more flexible in adjusting their conditions and reduce their premium risk. For the statement made in 310, « Article 210(2)(a) » should be « Article 211(2)(a) ».	Noted
132.	AAE	5.4.3	Article 211(3) of the Delegated Regulation ("realistic recovery plan") The introduction of a partial recognition period with a maximum of 6 months implies a recalculation of the SCR after this period with no or full recognition of the risk mitigation provided by the reinsurance undertaking concerned. This probably leads to a recalculation need during the year instead of at year-end, which rather adds complexity and raises new questions. Shortening	Disagreed. The normal rules apply (i.e. a recalculation has to be performed if the impact on the SCR is material). As the situation occurs infrequently EIOPA does not see the necessity for a change. Moreover, in case compliance has not been restored and the impact is material up-to-date information about the solvency position seems relevant

			the recognition period even below the 6 months as mentioned in paragraph 329 could further stress the situation especially when the period ends close to quarterly reporting cycles. Entities could tend to avoid a partial recognition from the beginning to avoid the recalculation cycles and might add some impact analysis into the ORSA. We would therefore recommend revisiting the paragraphs 324 and 329 from a process and methodology perspective.	
133.	Allianz SE	5.4.3	We appreciate the proposal to amend the regulation with regards to the recognition of rolling-hedges in the standard formula SCR. In particular it seems appropriate to introduce a lower minimum initial contract maturity for financial instruments and more frequent adjustments of the hedge instruments.	Noted.
134.	Institut des Actuaires (France)	5.4.3	Recognition of reinsurers: We agree with the proposal which as the advantage of reducing the systematic risk that comes from the current regulation where the breach of SCR is sufficient not to recognize the effect of reinsurance. We may however wonder how undertakings will be able to consider the proposal of 327 & 328 without a public statement from the supervisor as they are not in a position to do what is a supervirsor task : telling if the recovery plan is realistic or if compliance has been restored.	Noted. Noted. The idea of the provisions suggested by EIOPA is that the insurer can base the decision on public disclosure (by the reinsurer or the supervisory authority).

135.	Insurance Europe	5.4.3	Paragraphs 324 to 329 Insurance Europe supports EIOPA's proposal to allow the partial recognition of the risk mitigation provided by a reinsurer in breach of its SCR, subject to a number of time-related conditions, but without the provisions detailed in Article 211 (3) of the Delegated Regulation. This removes the requirements which had proved to be problematic, namely to demonstrate that the counterparty has submitted a realistic recovery plan and that compliance with the SCR will be restored within the timeframe prescribed in the recovery plan. Insurance Europe believes that the expiry period set out in paragraph 327 should be aligned with that of Article 138 of the Solvency II Directive, which permits an extension of the six month recovery period by up to three months subject to approval of the supervisory authorities. The current proposals do not provide recognition of the possibility of an extension to the period. However, it remains unclear whether "disclosure" refers to the disclosure by the reinsurer to the supervisory authority or public disclosure, eg through the reinsurer's SFCR. The information available to make	Noted. Disagreed. The six months for the partial recognition start only with the public disclosure of the SCR breach. Moreover, if the SCR could not be restored within six months this might indicate a more "difficult" case. Noted. The idea is that the insurer can base the decision on public disclosure (by the reinsurer or the supervisory authority).

			an assessment of a reinsurer's SCR is limited to publicly available data. Insurance Europe, therefore, believes that disclosure should be accepted to mean public disclosure and would welcome clarification on this issue from EIOPA. Concerning EIOPA's suggestion that the period for a partial recognition should be shortened accordingly in case the reinsurance undertaking discloses the date of the SCR breach and this date lies before the disclosure date. There is a high probability that the SCR will be restored in the prescribed time period after non-compliance so that shortening the period for a partial recognition appears not to be necessary.	Agreed. EIOPA decided not to recommend this.
136.	Reinsurance Advisory Board (RAB)	5.4.3	Article 211(3) of the Delegated Regulation EU 2015/35 ("realistic recovery plan") The RAB companies highly appreciate that EIOPA considers their comments on Article 211(3) of the Delegated Regulation, provided detailed feedback and suggests how to strike a balance between different considerations. Under Solvency II (re)insurers are required to be capitalised to meet their SCRs. In a stress event when the reinsurer has to meet higher obligations corresponding to the stress event, the SCR coverage may fall below 100%. In such a case, the risk margin	Noted. Disagreed. For a full recognition there should be a high degree of confidence that the provider of protection will be able to meet its obligations. Undertakings should be allowed to recognise in the calculation of the SCR

			provides for recapitalisation or transfer of the insurance liabilities and restoration of 100% solvency coverage. In this way Solvency II by design provides for continuation of 100% SCR coverage, apart from the temporary period after the stress event at which point recapitalisation/transfer occurs. Currently under Article 211 a reinsurer needs to be pre-stress capitalised at a level to ensure full solvency coverage post stress, with no credit taken for the risk margin in facilitating recapitalisation after the event, in order to provide full solvency credit for the ceding company post the stress event. RAB believes this is not appropriate as Solvency II was not designed to require SCR coverage significantly above 100%, and that credit for the performance of the reinsurance protection in stress should only be partially reduced where the future protection afforded by the reinsurance contract proves not to be temporary following the stress event (ie when a realistic recovery plan is not submitted or it fails to restore solvency). Article 138 (3) of the Solvency II Directive foresees the possibility for the supervisory authority to extend the six months period by 3 months and Article 138 (4) even allows an extension to up to seven years in exceptional circumstances – if the supervisory authority takes this decision, it is logical that recognition should also continue to be allowed for 3 months or longer as appropriate. Generally, the RAB believes that supervisors should retain sufficient discretion to extend the timelines regarding the credit which can be taken for reinsurance to ensure that insurers or reinsurers are	standard formula reinsurance with a reinsurance undertaking that is in breach of its SCR using the reduction factor set out in Article 211(3) of the Delegated Regulation without further conditions for the period set out below. There should be no recognition in case of a breach of the MCR. Disagreed. The six months for the partial recognition start only with the public disclosure of the SCR breach. Moreover, if the SCR could not be restored within six months this might indicate a more “difficult” case. Agreed. EIOPA decided not to recommend this.

			not forced into unnecessary and potentially counter-productive actions where recovery of the reinsurer remains realistic. In paragraph 312 EIOPA suggests that the period for recognition should be shortened accordingly in case the reinsurance undertaking discloses the date of the SCR breach and this date lies before the disclosure date. There is a high probability that the SCR will be restored in the prescribed time period after non-compliance so that shortening the period for a partial recognition appears not to be necessary. EIOPA considers that "There should be no recognition in case of a breach of the MCR". The Delegated Regulation is silent about this case and it is not necessary to give this precision because a breach of the SCR will precede any breach of the MCR and be resolved before such extreme situation. On the other hand, the consequences of a breach of the MCR will be rapid and significant if this extreme situation cannot be resolved. It is also necessary to avoid any ambiguity on the fact that the Delegated Regulation does not prevent the recognition of reinsurance if compliance with the MCR has been restored, without prejudice to compliance with the SCR.	Noted.
137.	European Public Real Estate Association	6.1	**Legal certainty** EU policy makers and legislators face a particular	Partially agreed. The Advice covers the

			challenge in EU law-making when establishing a common usage of technical terminology. This might be even more so in the EU legislation on financial services. Nevertheless, it is absolutely necessary to have clarity of what certain terms mean to provide legal certainty for market participants and to enable a harmonious implementation and application of EU rules. Hence, we would like to have a greater clarity the meaning of: ▪ a collective investment undertaking (including listed property investment companies and REITs) ▪ other investments packaged as funds (AIFs – real estate funds) ▪ investment related undertaking ➔ property investment companies in which insurance company holds a minimum of 25% participation ▪ investment to related undertakings ➔ investments to equities – to companies which are not investment companies and therefore the 'substance over form' principle would not justify the application of the look-through ▪ Insurance investment undertakings➔ insurance subsidiaries created for the investment purposes but without the licence to conduct the insurance business and not collective investment undertakings as they invest via those vehicles alone Besides, it is important to stress that we very much appreciate the „substance over form" principle. That is the main reason why we elaborate on what in	prudential treatment of investments in "related entities" which are essentially investment vehicles, and for which the exemption from the look-through application of Article 84(4) might not be appropriate from a risk assessment perspective (following the principle of substance over form). The definition of "collective investment undertaking" is provided in article 1 (40) of the delegated Regulation, while the concept of "related undertaking" of Solvency II is clarified in detail in EIOPA Guidelines on the treatment of related undertakings, including participations. With this Advice EIOPA identifies a new asset category, i.e. "investment related undertakings", regardless of the type of investment activity being conducted (real estate, debts, private equity,..). The "related undertakings" that are not established for investment purposes and are not mostly used for investment activities are still subject to article 84(4). Furthermore EIOPA is not going to map all possible investment schemes/funds within the "definitions" already provided in the Framework. The assessment of the different type of investment schemes/funds is left to undertakings and will anyway subject to the

			,substance' will happen in the real estate investment world if we limit the review of the look-through approach to investment related vehicles (see below). The question is whether the Solvency II rules limit the application of the look-though approach to property investments packaged as funds or extend it to real estate investment undertakings? In practice, we often see the stakeholder's view is too narrow and limits the scope of the look-through to those investments that are packaged as funds. However, the rules are as follows: Article 84 (1) The Solvency Capital Requirement shall be calculated on the basis of each of the underlying assets of **collective investment undertakings** and other investments packaged as funds (look-through approach). ……… Article 84(4) Paragraph (2) shall not apply to **investments in related undertakings** within the meaning of Article 212(1)(b) and (2) of Directive 2009/138/EC. This is what the Solvency II Delegated Regulation's provision currently says. What is being discussed in the EIOPA draft advice is how to increase the certainty of the application on the look-through and also extend it to include certain (but not all) investments in related undertakings which are currently excluded.	regular scrutiny by supervisors during supervision activities. As regards property investments, the 'EIOPA Guidelines on look- through approach' already clarify that for equity investments in a company exclusively engaged in facility management, real estate administration, real estate project development or similar activities, undertakings should apply the equity risk sub-module. Following the new Advice, according to EIOPA, in order to "qualify" for the application of the look through approach, the investment undertaking, other than meeting the general Solvency II conditions for being a "related undertaking", should meet all the specific conditions illustrated in the Advice (i.e. its main purpose is holding assets on behalf of the (parent) insurance undertaking; it supports the operations of the insurance undertaking related to investment activities, following a defined specific investment mandate; it does not run any other significant business than investing for the purpose of the parent undertaking). This framework is intended to be general (and not tailored to specific investment schemes) and applies also for the case of REITs.

			While we understand that the EIOPA's objective with this proposed measures is based on the „substance", the discussion in the draft advice is mostly around „the form" of the investment related undertakings. While the form, especially to ensure legal certainty, is very important, we would like to highlight the fact that the look-through was designed to look at the substance – i.e. the underlying assets – of all collective investment undertakings (no matter of their non-corporate or corporate form). The law restricted its application not to collective investment undertakings but to the investments in related undertakings and our comments below are to help explain that **investment related undertakings and investments in related undertakings are not the same matter**. In summary, we believe that extending the look-through application to include certain **investment related undertakings,** it includes those undertakings which are already covered in the look-through approach, but limiting them by requiring at least 25% of the insurance companies' participation. If we, however, understand correctly that the purpose of this discussion is to: 1) Determine the application of the look-through approach to the insurance companies' subsidiaries created for the investment purposes; and to 2) Ensure its consistent application across the EU Member States,	

			then we need to work together on defining the following two terms to ensure their correct legal application in all EU member states: **1) Collective investment undertakings** **2) Related/Insurance investment undertakings** Therefore, we highlight the current definition of **collective investment undertakings** by ESMA (not the same as alternative investment funds – AIFs – yet). In ESMA's guidelines released on 13 August 2013, ESMA sought to define the key elements of the Directive definition of an AIF, noting that an entity will only be considered an AIF **where all of the elements are present**. One of the requirements is that an AIF has to be at the same time a collective investment undertaking and therefore ESMA looked at what a collective investment undertaking is. It is important to stress that not all collective investment undertakings (for example listed property investment companies, including REITs) are also alternative investment funds – AIFs. But all AIFs are at the same time collective investment undertakings. **Collective investment undertaking - pooling and other criteria**	

			The term "collective investment undertaking" is not defined either in the AIFMD Directive or under European law, and is per se **a very broad concept**. ESMA has specified that one of the characteristics of a collective investment undertaking is **that it "pools together capital raised from investors for the purpose of investment with a view to generating a pooled return for those investors".** ESMA notes that for the purpose of determining whether a pooled return is generated, no consideration should be given to whether investors in such undertaking are provided with different returns, such as under a tailored dividend policy. The key difference between the listed property investment companies, including REITs, is therefore not the performance of the underlying assets, but the way such undertaking is being managed (the „substance over form" principle): • They pool together capital – raised from investors (via financial markets) • The purpose is to invest them to real estate (at least 75% of EBITDA has to come from the relevant real estate activities (see in general comments) • They invest with a view to generate a pooled return for the investors (REITs have a legal obligation to distribute the majority of its income to investors) • But they are also subject to more stringent	

			company rules, corporate governance rules, accounting standards, audit requirements or even non-finantial information reporting obligations – as these are in the form of a listed operational company • They have internal & professional management • They have business strategies • They are not limited in time (closed-ended) • They are transparent entities, not opaque • They invest in the income-generating commercial real estate etc. Having said that, the look-through approach should not (and it is not under the Article 84(1) of the Solvency II Delegated Regulation) be restricted to those investments which are packaged as funds. Instead, investments in listed property investment undertakings, including REITs, should also apply the look-through approach as they also invest in real estate collectively. The importance of this point is that there is currently no sufficient level playing field between the real estate market participants. The „substance over form" principle can help address this issue and ensure that **investments in real estate can be:** 1. Done directly 2. Via illiquid and opaque funds (investments packaged as funds via the look-through approach) 3. Via transparent and liquid listed property	

			investment companies (all collective investment undertakings – not just funds – via the look-through approach) **are treated equally for the purpose of the solvency capital requirements.**	
138.	Gesamtverband der deutschen Versicherungswirtschaf	6.1	GDV largely supports the criteria and definition of an "investment related undertaking" proposed by EIOPA. However, from our point of view some further changes and clarifications are needed, in particular to ensure a proportionate (and not mandatory) application of the look through approach. It is likely that the extension of the look-through results in additional costs and challenges regarding data availability. Therefore proportionate exemptions of the look-through-requirement should be implemented so that undertakings have the option to apply the existing equity capital charge to investment related undertakings. This should at least be possible, if the exposure is not material. Our detailed comments on EIOPAs considerations, analysis and advice can be found in sections 6.3 to 6.4. We are looking forward to EIOPA's further considerations in this regard and its further proposals on simplifications of the look-through approach, which are announced by EIOPA for its second set of advice. In regard to the review of the look-through requirements	Disagreed. EIOPA is aware of the costs and challenges regarding data availability for the application of the look through, but is not in favour to promote an "optional" look-through approach, neither to propose "exemptions" for specific cases. The look through approach is one of the fundamental principles of Solvency II, also from a risk management perspective. EIOPA is rather going to further harmonize the application of article 84 of the Delegated Regulation. The introduction of "optional" provisions in the standard formula would not help meet this target. Furthermore EIOPA believes that the best way to enhance the "proportionality" in the standard formula is by proposing refinements to the already existing simplifications, to make them more widely applicable and less costly. EIOPA is indeed going to propose some improvements to the simplified look-through of article 84(3) in the second part of the Advice.

			of article 84 (3) Delegated Regulation GDV considers the 20% threshold as inappropriate for undertakings, which have a strong focus on unit-linked products and therefore a high amount of UCITs in its portfolio, because the collection and processing of data always involves a high effort whereas the impact of such unit-linked-funds on the SCR is negligible. GDV therefore suggests, that this threshold should not apply to assets of unit-/index-linked products, where the risk is borne solely by policy holder or at least to increase the threshold substantially.	
139.	Insurance and Reinsurance Stakeholder Group (IRSG)	6.1	The IRSG welcomes EIOPA's proposed definition approach of an investment related undertaking, which is in line with previous suggestions by the IRSG. It further welcomes that EIOPA proposes as a key criterion in the definition of an investment related undertaking that the sole purpose of the investment related undertaking is the holding of assets. As previously indicated, the IRSG believes the look-through approach should be optional, as its application generates significantly high costs. Therefore the IRSG does not agree with EIOPA's suggestion to make look-through mandatory for all investment related undertakings. Specifically, IRSG proposes that the standard method should be allowed for insurers when they can prove that it leads to more conservative outcomes. Insurers could test conservativeness by, for example, basing their assessment on the target asset allocation or latest fund composition.	See answer to comment n.138.

140.	Insurance Europe	6.1	Insurance Europe welcomes the Commission's request for EIOPA to investigate the extension of the look-through approach to related undertakings. It broadly supports the criteria and definition of an "investment related undertaking" proposed by EIOPA. However, additional work is required to ensure that the application of the look-through approach can be implemented in a proportionate manner. Detailed comments on the analysis and proposals provided by EIOPA can be found in sections 6.3 to 6.4.3. Insurance Europe looks forward to EIOPA's proposals on simplifications of the look-through approach, expected in EIOPA's second set of advice.	Noted
141.	Munich Re	6.1	From our point of view some further clarifications are needed, in particular to ensure a proportionate application of the look-through approach. It is likely that the extension of the look-through results in additional costs and challenges regarding data availability. Therefore proportionate exemptions of the look-through requirement should be implemented so that undertakings have the option to apply the existing equity capital charge to investment related undertakings. This should at least be possible, if the exposure is not material.	Please see answer to comment n.138.
142.	European Public Real Estate Association	6.2	We believe that as part of this particular discussion article 84(1) of the Solvency II Delegated Regulation should be extended rather than limited.	Noted. On this specific item, EIOPA is going to propose the technical Advice to the

			Article 84(1) includes all collective investment undertakings (including those where insurance company has a participation). Article 84(4) refers to investments in related undertakings (which are not investment undertakings and hence equity SCR – 39%/49% or potentially strategic equity – 22%) The intention here should be to extend the look-through approach, currently granted to all collective investment undertakings (where listed property investment companies should be considered) to include those investment undertakings, which are not collective but controlled/owned by insurance companies for the same purpose, i.e. investment in the underlying assets. We should therefore refer to insurance investment undertakings and either extend article 84(1) or create a new category e.g. 84(2)(d). We believe that this approach would be more consistent and clearer as Article 84(4) is intended to exclude those undertakings which are not designed for the purpose of investments.	Commission without suggesting the concrete legal way to reflect it in the legal text of Article 84.

			Article 84(4) should be therefore kept as it is, limited to those companies which are not investment companies.	
143.	Royal Dutch Actuarial Association	6.2	We welcome the intention to provide additional guidance on the application of the look-through approach. In the existing regulation with the existing definitions, it is not always clear whether or not to apply the look-through.	Please see answer to comment n.137.
144.	European Public Real Estate Association	6.3	**Conditions under which it would be appropriate to allow look-through for investment related vehicles** **In your assessment,** you currently consider to limit the extension of the application of the look through to **investment vehicles which meet the definition of "related undertakings"** of the Solvency II regulation. These investment schemes might be considered as **"hybrid cases"** because they are "formally" investments in equity structures, but substantially are **similar to investments in collective investment undertakings.** Even though the Delegated regulation does not strictly require the application of the look through, some undertakings may have already considered them as "investments packaged as funds" and hence performed the look-through to calculate the SCR. But there is no certainty that the look through approach is being applied by default by all European undertakings. At this point, we would like to reiterate that it is our legal understanding that the look-through approach had	Please see answer to comment n.137.

			never been intended to be limited to „investments packaged as funds" but apply to **all collective investment undertakings** and **other investments packaged as funds**. In fact, we would like to refer to the extract CEIOPS' Advice for Level 2 Implementing Measures on Solvency II: Structure and Design of Market Risk Module (Section 6.4.). ***Investment funds*** *4.183 In order to properly assess the market risk inherent in* ***collective investment vehicles,*** *<u>and other investments packaged as funds</u>, it shall be necessary to examine their economic substance.* ***Wherever possible, this shall be achieved by applying a look-through approach in order to assess the risks applying to the assets underlying the investment vehicle.*** *Each of the underlying assets would then be subjected to the relevant sub-module stresses and capital charges calculated accordingly.* *4.184 The look through approach shall also be applied for other indirect exposures.* *4.185 Where a number of iterations of the look-through approach is required (e.g.*	

			where an investment fund is invested in other investment funds), the number of iterations shall be sufficient to ensure that all material market risk is captured. *4.186 The above recommendations can be applied to both passive and actively managed funds except for investments in funds that track a well-diversified index including only listed equity from developed markets.* As mentioned above, we strongly believe that there is a difference between **investment related undertakings** and **investments in related undertakings** (which are investments of insurance companies to their related undertakings that are not investment undertakings and hence apply equity SCR). We also believe that the intention of these proposals on the look-through approach is to expand its application to **insurance investment undertakings** (their subsidiaries) which are investment undertakings but are not collective **(as they don't "pool together capital raised from a number of investor).** Instead, these investment vehicles have no purpose other than holding assets on behalf of the parent (insurance) undertaking. It means that the targeted investment vehicles are generally established with a distinct goal which supports the operations of the insurance undertaking.	

			As a result, we strongly advice that the EIOPA defines that: 1) **All collective investment undertakings**, including listed property investment companies and REITs, and other investments packaged as funds, are under the look-through approach; and then extends such application to; 2) **Certain insurance investment undertakings** (as defined – by limiting the scope to those were they are controlled/owned (>50%) by insurance companies and where they have been established for the investment purpose 3) **Investments in related undertakings** (those that are not established for the investment purpose and used for investment activities) are kept outside of the look-through approach under the Article 84(4). Under the EIOPA guidelines, it would cover investments in a company exclusively engaged in facility management, real estate administration, real estate project development or similar activities. Such undertakings should apply the equity risk sub-modul.	

			Such an approach, would ensure a better level playing field in the real estate investment landscape; and also enable insurance companies to better diversify their real estate asset allocation.	
145.	Gesamtverband der deutschen Versicherungswirtschaf	6.3	Paragraph 337 GDV agrees that common criteria should be developed to identify related undertakings which are used as investment related vehicle. The existence of an investment mandate can be one relevant criterion for the identification of such undertakings. However, the demands on the existence of an investment mandate should not be too high. Such mandate should not only be sufficiently proved by a (precise) defined investment mandate. Rather the requirement should also be fulfilled by other indicators, such as e. g. - the purpose outlined in the partnership agreement or the statute of the investment related undertaking, - the context of its incorporation (as investment vehicle) or - internal investment guidelines of the (parent) insurance company. Ancillary activities which are related to investment activities should also be covered by an appropriate definition, because investment relating undertakings	Disagreed. EIOPA has considered alternative indicators other than the specific investment mandate, but is still of the opinion that general criteria (e.g. the "context" of incorporation/agreement, the existence of internal guidelines,…) would make the definition too vague and subject to different interpretations, with the risk of cherry-picking. That's why EIOPA is in favour of promoting a definition which is based on the existence a more "formal" and "factual" element (i.e. precise investment mandate). Agreed. EIOPA does recognize that an investment related undertaking might also conduct a minor part of business which is not investment-related. The criteria will be slightly modified to specify that the "vehicle" might run other types of business, provided that they are not significant.

			fulfill their investment role not only in holding assets on behalf of the (parent) insurance undertaking, but also by ancillary services which support the operations of the insurance undertaking in regard to investment activities.	Please see answer to comment n.138.
			Paragraph 342 and 343 GDV does not consider the level of financial leverage as an appropriate criterion and therefore supports the approach not to pose specific conditions regarding the financial leverage of such undertakings. The nature of liabilities does not appear as appropriate criterion, too.	Please see answer to comment n.138.
			Paragraphs 344 As stated above, the existence of an investment mandate is seen as one relevant criterion for the identification of such undertakings. However such mandate should not only be sufficiently proved by a (precise) defined investment mandate but also by other indicators (for further details see our comment to paragraph 337).	

			Paragraphs 345 and 346 The application of the look-through approach generates costs in its own rights and is also likely to result in additional costs and challenges regarding data availability. To ensure that the application of the look-through on investment related undertakings does not lead to a disproportionate effort, it is necessary to allow undertakings as an option to apply the existing equity capital charge to investment related undertakings, e. g. in cases where the exposure is not material. Paragraph 349 GDV strongly supports optionality in the application of the look-through to investment related undertakings. As proposed in our comments to paragraphs 345 and 346 above, optionality should apply when justified from a prudential perspective.	
146.	Insurance Europe	6.3	Paragraphs 334 to 337 Insurance Europe agrees that the identification of related undertakings that are used as investment related vehicles can be determined through existence of a specific mandate and a pure investment role it fulfils. It further agrees that common criteria should be developed to identify these undertakings, rather than through self-determination. Paragraph 342 & 343	Noted Please see answer to comment n.138.

			Insurance Europe agrees that investment related undertakings that are leveraged should not be excluded from the scope of the extension. Insurance Europe believes proportionate application is important and materiality thresholds could be be introduced. Insurance Europe believes the equity charge approach could be allowed when periodic qualitative and quantitative demonstration of the prudence or conservativeness of the equity charge approach can be provided (see also comments below, see paragraphs 345 - 346,376).	
			Paragraphs 345 & 346 Insurance Europe supports the arguments put forward in the cost/benefit analysis. The extension of the look-through approach to investment related undertakings is expected to result in improved risk sensitivity, risk management and avoidance of excessive capital charges.	Please see answer to comment n.138.
			However, it is also likely to result in additional costs and challenges regarding data availability. Insurance Europe believes that the look-through approach can be the standard approach, however unjustified costs and data challenges can be mitigated or removed by allowing undertakings the option not to apply the look-through approach in the following cases: 1. When the SCR based on a look through approach is lower than the SCR based on a standard	Please see answer to comment n.138.

			formula approach, 2. When the exposure is not material. Insurance Europe believes that this optionality could be introduced either as part of the change to the legal text or alternatively through a simplification. Additionally, Insurance Europe notes that undertakings should also be allowed to use the target underlying asset allocation of the related undertaking, in line with article 84(3) of the Delegated Regulation. Paragraph 349 Insurance Europe believes that the application of look-through to investment related undertakings should be the default approach but strongly supports optionality when justified from a prudential perspective.	Please see answer to comment n.138.
147.	KPMG	6.3	Several respondents emphasize the need for a specific mandate for the application of look-through. We do not necessarily agree with this. As long as the actual risk exposure is clear, look-through can be applied. The criterion should be whether the risk is equal to the risk in a direct investment in the underlying exposure. However, even if theoretically the best solution, the application of look-through approach should not be made mandatory in any case (materiality reasons may be an argument against applying the look-through	Noted. The mandate of this project is not to review the application of article 84(1) and the “technical basis” for the application of the look-through approach. The objective is rather to extend its application to some related undertakings that might operate as investment vehicles. EIOPA will anyway consider the point further

			approach). We agree that the existence of leverage is not necessarily a problem for the application of look-through.	after the release of the Advice. As regards the mandatory application of the look-through, please see answer to comment 138.
148.	Munich Re	6.3	Paragraphs 345 and 346 The application of the look-through approach generates costs in its own rights and is also likely to result in additional costs and challenges regarding data availability. To ensure that the application of the look-through on investment related undertakings does not lead to a disproportionate effort, it is necessary to allow undertakings as an option to apply the existing equity capital charge to investment related undertakings; e. g. in cases where the exposure is not material. Paragraph 349 We strongly support optionality in the application of the look-through to investment related undertakings. As proposed in our comments to paragraphs 345 & 346 above, optionality should apply when justified from a prudential perspective.	Please see answer to comment 138. Please see answer to comment 138.
149.	Royal Dutch Actuarial Association	6.3	Several respondents emphasize the need for a specific mandate for the application of look-through. We do not necessarily agree with this. As long as the actual risk exposure is clear, look-through can be applied. The criterion should be whether the risk is equal to the risk	Please see answer to comment 147.

			in a direct investment in the underlying exposure. We agree that the existence of leverage is not necessarily a problem for the application of look-through.	
150.	AMICE	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 approach used in the accounting balance sheet and for risk management purposes. For example, having a company balance sheet view increases the administrative burden as intragroup loans are recognised on the balance sheet of both entities which could differ in economic value.	Though the comment is not entirely clear, we would like to state that in any case the look through approach is not only analysed with a group perspective (so when ultimate parent undertaking is concerned). Investment related undertakings should also be identified at solo level with the same criteria.
151.	Dutch Association of Insurers	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.	Please see answer to comment 150
152.	European Public Real Estate Association	6.4	See above in 6.3.	Please see answer to comment 137.
153.	Royal Dutch Actuarial Association	6.4	We encourage the increased consistency in the application of look-through. However, there may be cases where the underlying information is not easily available, and not necessary to make a good estimate of the available risk in the investment. Therefore, we	EIOPA is supportive of enhancing the "proportionality" in the standard formula by proposing refinements to the already existing simplifications to make them more widely applicable and less costly. EIOPA is indeed

			feel there should be a « proportionality » criterion included in additional guidance. When the exact information is not available, approximations should be allowed for similar to the proportionality principle described for the TP in article 56 of the Delegated Regulation. This will avoid excessive costs when applying the look-through principle in a situation where the exact information is not available, and where a high quality approximation - proportional to the risk - is available.	going to propose some improvements to the simplified look-through of article 84(3) in the second part of the Advice.
154.	AAE	6.4.2	We would expect the LAC DT to be consistently applied, which is not currently explicitly mentioned in the text. This is particularly relevant in case of different tax rates on Equity investment. We would also recommend defining the hierarchy of the rules applicable in case of eligibility for the Duration Based Equity.	These comments seem to be out of the scope of this section.
155.	Deloitte Touche Tohmatsu	6.4.2	We welcome the clarity which EIOPA is seeking to put in place around investment entities and the look-through approach. Specifically, we agree with EIOPA on paragraph 369 that a clear definition should be given of these “investment related undertakings” and that the existence of a specific investment mandate will be a key element of the judgement.	Noted.
156.	European Public Real Estate Association	6.4.2	See above. The Questionnaire to NSAs seems to be addressing ‘related undertakings’ which represent ‘investment vehicles’ for holding assets or have been established with the predominant purpose of holding assets on behalf of the parent insurance company.	Please see answer to comment 137.

			You also mentioned that that these investment vehicles are generally alternative investments funds (AIFs) following dedicated mandates, private equity participations or subsidiaries established for investment purpose. Hence, it is confirming our understanding that the intention here is to tackle Insurance investment undertakings (extension of 84(1), rather than limit application of 84(4)). Under the point 366 of the draft advice, it is mentioned that in some markets the application of the equity risk capital requirement for property holding related undertakings has been considered by local supervisors not to reflect the actual risk. If the investments are treated as strategic equity investments, the capital requirement may be relatively similar to the capital requirement for property investments. Otherwise the capital requirement for equity apply, whic may overstate the risk. We agree with that statement of national regulators and believe that we should be looking at the substance (property) over form (equity) by applying the look-through approach. This is even more visible and more urgent to be addressed in the listed property investments sector	

			(listed property investment companies and REITs), for which there is a number of studies demonstrating their correlation with direct property (see more above in the General Comment section). **Investments in listed property investment companies and REITs should apply the look-through approach, too.** As outlined in the draft advice, the benefits identified for extending the look-through approach to such cases outweigh the cons. In particular, it appears that there are several situations in the EEA where applying the equity shock for type 2 overestimates the risks as the "investment related undertaking" has an investment portfolio which is either more diversified or **specialised in real estate**. Moreover, not applying the look-through may lead to a higher market risk concentration, which does not reflect the reality of the underlying risks. We fully agreed that the regulatory framework could do more to enable insurance companies to diversify their real estate allocation. We would like to highlight that to do so by investing in transparent, liquid and professionally managed listed real estate investment companies (and REITs) guarantees a more adequate diversification benefits (to mention just one of the benefits).	

			We should not only be looking at the “investment related undertaking” with an investment portfolio which is either more diversified or **specialised in real estate**. We should be looking at the whole real estate investment landscape, and more urgently at the uncertanties the listed real estate investment companies currently face under the look-through approach. This may help to decrease considerable the market concentration risk of the more opaque vehicles.	
157.	Gesamtverband der deutschen Versicherungswirtschaf	6.4.2	Paragraph 355 The feedback given to NSAs regarding the relevance of these investment vehicles confirms that exposures to investment related undertakings in some markets are immaterial. This reiterates the need to allow undertakings not to apply the look-through for immaterial exposures. Paragraph 369 As stated above, the existence of an investment mandate is seen as one relevant criterion for the identification of such undertakings. However such mandate should not only be sufficiently proved by a (precise) defined investment mandate but also by other indicators (for further details see our comment to	Please see answer to comment 138. Please see answer to comment 145.

			paragraph 337).	
158.	Insurance Europe	6.4.2	Paragraph 355 Insurance Europe notes the feedback from NSAs specifically mentions that exposures to investment related undertakings are immaterial in some markets. It therefore reiterates the need to provide a proportionate calculation option for immaterial exposures. Paragraph 373 See comments provided to paragraph 345 & 346. Insurance Europe welcomes further analysis on simplifications for the look-through approach which are due to be consulted on in as part of the second set of advice. In particular, Insurance Europe believes that the 20% threshold needs to be reviewed to at least a 30% level, and should not apply to unit- or index-linked products, given their very limited impact on SCR.	Please see answer to comment 138. Noted. This issue will be analysed in detail in the second part of the Advice, specifically covering the simplified approach of article 84(3) of the delegated regulation.
159.	Investment and Life Assurance Group (ILAG)	6.4.2	We welcome the clarity which EIOPA is seeking to put in place around investment entities and the look-through approach. Specifically, we agree with EIOPA on paragraph 369 that a clear definition should be given of these "investment related undertakings" and that the existence of a specific investment mandate is a key element of the judgement.	Noted

160.	Royal Dutch Actuarial Association	6.4.2	We agree that an extension of the scope of look-through is desirable. We have seen several examples where related undertakings are investment vehicles, and it would be better for the transparency if look-through is applied to these related undertaking. Although these related undertakings are often associated with investments in property, there is no need to restrict the extension to property investments as is done by the existing guideline. With respect to the investment mandate, we recognize the benefit of a specific mandate. However, whenever there is no mandate, but the investments can be clearly identified, we think that look-through can also be applied. Therefore we do not see the strict requirement for a mandate.	Please see answers to comments 137 and 145.
161.	AAE	6.4.3	Under the current rules the lack of look-through in respect of investment related undertakings generally means the SCR is significantly higher than if it was allowed to look-through (as equity shock is applied to the value of such a participation). Insurers seem to prefer the option to apply the look-through approach to investments in 'Investment Related Undertakings' (see para. 349 of Section 6.3). EIOPA however, seems to offer all or nothing: look-through can be either mandatory or not allowed at all (see Section 6.4.3). A compromise solution would be to require insurers to apply the look-through approach to investments in 'Investment Related Undertaking' unless they can demonstrate to NSAs that such approach is not	Please see answer to comment 138.

			appropriate (e.g. when the related undertaking is highly leveraged).	
162.	AMICE	6.4.3	We agree with EIOPA's advice but we would like the look through to be also applied when determining the economic balance sheet.	
163.	Assuralia	6.4.3	Look-through of investment related undertakings We fully support the intention of EIOPA extend the look-through approach to investment related undertakings. In paragraph 375 of the consultation paper, an investment related undertaking is defined as "a related undertaking that meets the following conditions: its purpose is holding assets on behalf of the (parent) insurance undertaking…" A strict reading of this condition may exclude many investment related undertakings, which do not solely hold assets, but actively manage assets. As an example, investment related undertakings specialized in real estate will not passively hold real estate, but will also construct, lease, refurbish… (i.e. manage) real estate. We therefore propose the following clarification: "its purpose is holding or managing assets on behalf of the (parent) insurance undertaking" We agree that the look-through approach to investment related undertakings should be mandatory and not	Noted. Agreed. EIOPA agrees to reflect the case of "asset management" in the definition. The Advice will be amended accordingly.

			optional. A mandatory look-through leads to a risk-based view of the underlying investments. The SCR will then better reflect the exposure of the investment related undertaking.	
164.	Deloitte Touche Tohmatsu	6.4.3	While we agree with EIOPA's principle of specifying which undertakings will be considered investment undertakings and, therefore, require look-through approach, we consider a materiality threshold appropriate; for example the SII value participation as a percentage of total invested assets of the participating undertaking. Setting an appropriate threshold would achieve a proportional outcome.	Please see answer to comment 138.
165.	Dutch Association of Insurers	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.	Noted. This seems to be a general point regarding the calculation of the SCR, rather than a point to be reflected in this Advice. EIOPA will consider this further after the release of the Advice.
166.	European Public Real Estate Association	6.4.3	As above.	
167.	Gesamtverband der deutschen	6.4.3	Paragraph 375 and 376 GDV supports the definition of "investment related	Please see answer to comment 145.

	Versicherungswirtschaf		undertaking" provided by EIOPA subject to the following clarifications: - The investment mandate should not only be sufficiently proved by a (precise) defined investment mandate. GDV proposes the following clarification in regard to the second condition: "it supports the operations of the insurance undertaking related to investment activities, following an investment mandate. The existence of a corresponding investment mandate can be proven also be by other indicators, such as e. g. - the purpose outlined in the partnership agreement or the statute of the investment related undertaking, - the context of its incorporation (as investment vehicle) or - internal investment guidelines of the (parent) insurance company. Investment related undertakings fulfill their investment role not only in holding assets on behalf of the (parent) insurance undertaking, but also by ancillary services which support the operations of the insurance undertaking in regard to investment activities. In regard to the third condition it therefore should be clarified that ancillary activities which are related to investment activities are covered by an appropriate definition. In addition it should be clarified, that strategic	EIOPA believes that investment related undertakings which are strategic should not be excluded from the definition of "investment related undertakings". Once there is a clear investment mandate and the entity is set mostly for investment purposes, the undertaking is considered equivalent to an investment fund.

			investments are excluded from the definition of "investment related undertakings". Such investments should continue to be treated as strategic participations. Paragraph 376 As stated in the response to paragraphs 345 and 346 GDV proposes that optionality should be integrated into the framework to enable undertakings to use the existing equity risk capital charge for immaterial exposures.	As regards optionality, please see answer to comment 138.
168.	Institut des Actuaires (France)	6.4.3	We note that the issues related to the simplification of the look-through approach will be included in the second set of consultations later this year. We agree that the scope of application of the look-through approach should be extended to investment related undetakings including open ended investment vehicles such as SICAV. However, we consider that the proposal to impose the mandatory use of the look-through approach (referred to in Para.376 of EIOPA-CP-17-004) even when this would lead to a lower SCR should be reviewed. This advice could be considered to be inconsistent with the two notions of proportionality and materiality (ensuring that the most material risks are assessed) which are	Please see answer to comment 138.

			strongly emphasised in EIOPA's advice on Simplified Calculations in section 2 of EIOPA-CP-17-004. Under the current rules and guidelines an equity charge can be applied calculating the SCR for investments in related undertakings. Subject to a periodic qualitative or quantitative demonstration (where material) of the prudence or conservativeness of the equity charge approach, we would propose that this simplification continue to be permitted, in particular in cases where look-through would lead to a lower SCR for investments in related undertakings. This would be more consistent with the objective of the standard formula review of simplification where possible and proportionate application of the standard formula, in particular for smaller undertakings.	
169.	Insurance Europe	6.4.3	**Paragraph 374 & 375** Insurance Europe supports the principle of " substance over form " in the application of the look-through approach to investment related undertakings. It further supports the definition of "investment related undertaking" provided by EIOPA subject to the following clarifications: • A strict interpretation of the first condition "its purpose is holding assets on behalf of the (parent) insurance undertaking" may exclude many investment related undertakings which do not solely *hold* assets but actively *manage* assets. As an example, investment related undertakings specialised in real estate will not passively hold real estate, but will also construct, lease, refurbish… (ie manage) real estate. Insurance Europe proposes the following clarification, "its purpose is	Noted. As regards the case of "asset management", please see answer to comment 163. As regards the use of indicators other than the investment mandate, please see answer to comment 163.

			holding <u>or managing</u> assets on behalf of the (parent) insurance undertaking" • The requirement for the existence of an investment mandate could also be fulfilled by other indicators, such as the purpose outlined in the partnership agreement of the investment related undertaking, the context of its incorporation (as investment vehicle) or internal investment guidelines of the (parent) insurance company. In addition, Insurance Europe would like to make clear that strategic participations with an investment purpose and, as such, fulfilling the criteria for investment related undertakings should not be excluded from the scope of the investment related undertaking. **Paragraph 376** Insurance Europe highlights that the statement *"The application of the look through approach to "investment related undertakings" should be mandatory, regardless [of] whether it is likely to determine a lower SCR"* is inconsistent with the statement in paragraph 373 where EIOPA assesses it may be sensible to apply the more conservative SCR where an undertaking can prove that SCR applying type 2 equity charge is more conservative. Therefore the statement in paragraph 376 should be modified or deleted. As noted in the response to paragraphs 345, 346 & 349, Insurance Europe proposes that the application of the look-through approach could be the default approach. However,	As regards the treatment of (strategic) investment related undertakings, please refer to the answer to comment 167 Please see answer to comment 138.

			optionality should be integrated into the framework to enable undertakings to use the existing equity risk capital charge for immaterial exposures or where the SCR based on a look through approach is lower than the SCR based on a standard formula approach. This could be achieved through the use of materiality thresholds and periodic qualitative and quantitative demonstration of the prudence of the equity charge approach.	
170.	Investment and Life Assurance Group (ILAG)	6.4.3	While we agree with EIOPA's principle of specifying which undertakings will be considered investment undertakings and, therefore, require look-through approach, we believe there should be a materiality threshold, for example the SII value participation being 10% or more of invested assets of the (re)insurance undertaking. This would then lead to a proportionate outcome.	Please see answer to comment 138.
171.	KPMG	6.4.3	In principle, we agree with the advice as from an economic/risk view the look-through approach is always the theoretically best solution. However, in our view there are several points which should be considered : - With respect to the investment mandate, we recognise the benefit of a specific mandate. However, we think look-through should also be applied when the investments are clearly identifiable, i.e. when the risk exposure is clear, in the absence of a mandate. - It is not clear to us how to approach an investment vehicle that has an investment mandate from more than one insurance company. We would appreciate further guidance on this.	Please see answers to comments 137, 138 and 145. The case of an investment mandate from more than one insurance company is considered to be an important element to be assessed on a case by case basis. EIOPA's intention is anyway not to limit the applicability of the look-through approach to cases where the investment mandate comes from one single undertaking.

			- It may be good to provide a backup option when the underlying information is not available. The objective should be to come to a more realiable risk estimate without excessive increase of the administration costs for the undertakings concerned.	
172.	Munich Re	6.4.3	Paragraph 376 As also stated in the response to paragraphs 345 and 346 we proposes that optionality should be integrated into the framework to enable undertakings to use the existing equity risk capital charge, e.g. for immaterial exposures.	Please see answer to comment 138.
173.	Royal Dutch Actuarial Association	6.4.3	We agree with the advice. However, it may be good to provide a backup option when the underlying information is not available. The objective should be to come to a more reliable risk estimate without excessive increase of the administration costs for these undertakings. Furthermore, we understand the reference to an investment mandate. However, we think look-through should also be applied when the investments are clearly identifiable in the absence of a mandate.	Please see answers to comments 138 and 145.
174.	Insurance and Reinsurance Stakeholder Group (IRSG)	7.1	The IRSG welcomes the proposed improvements by EIOPA with regards to the methods and areas of application: • As regards methods, the IRSG appreciates the introduction of a new USP method for non-proportional reinsurance which deals with stop	Noted. EIOPA will assess the proposed methodologies for undertaking-specific parameters on lapse

			loss reinsurance contracts. This will supplement the current method which solely caters for excess of loss reinsurance programs. The IRSG equally appreciates EIOPA's call on the industry to provide more examples/solutions for USPs in the domain of lapse risk. The introduction of USPs for lapse risk should be considered, not least because of the substantial impact of lapse risk on the European life insurance market and the highly company specific characteristics in terms of lapse level and volatility. In doing so, due consideration should be given to the calibration of the mass lapse which is currently extremely conservative. • In terms of areas of application, the IRSG appreciates that consideration will be given at a later stage to USPs for nat cat, longevity and mortality, once the recalibration and correlation works are completed. However, the IRSG believes that EIOPA should be more ambitious regarding the data requirements, the areas of application, and the scope of the methods to be used. • Data requirements should be adapted to ensure that although firms may not yet have enough historical data, the use of USPs is still possible, including for GSPs. The IRSG believes that the mandate given by the call for advice regarding assessing the data criteria to be met provides	risk by February 2018 to the extent resources are available. Because of timing and resources constraint the possibility to introduce undertaking-specific parameters in the natural catastrophe risk will only be investigated by EIOPA at a later stage. The data requirements stated in Article 219 of the Delegated Regulation are, in substance, the same as those applying for the calculation of technical provisions (cf. Article 19 of the Delegated Regulation). Some flexibility regarding the data completeness criteria already exists. For instance, it is required that data are free from material errors (paragraph 2 of Article 19 of the Delegated Regulation); Article 219(e) of the Delegate Regulation also addresses the situation of adjustments of the data and how they should be justified and documented. Finally, Article 104(7) of the Solvency II Directive requires NSAs to verify the "completeness, accuracy and appropriateness of the data used".

			ample room for EIOPA to relax these. • In addition, EIOPA should expand the USPs' application to all areas of life, non-life and health. As the Solvency II directive prohibits the use of USPs only in the market risk module and the counterparty default risk modules, the limitation of their application to some specific areas of the underwriting risk modules is inappropriate. • Finally, the USP framework should be more flexible and allow for simplifications. Given the importance of reinsurance as a risk mitigating tool, it is imperative to address the issues with recognition of all non-proportional reinsurance and other forms of reinsurance not well reflected in the standard formula. The IRSG considers the development of USP for Aggregate Excess of Loss Covers, which are similar to Stop Loss Reinsurance Covers, as a particular aspect of the framework which EIOPA could investigate further.	
175.	Insurance Europe	7.1	Insurance Europe welcomes the Commission's request for EIOPA to investigate the subset of standard parameters in the life, non-life and health underwriting risk modules that may be replaced by USPs.	

			Insurance Europe remains strongly supportive of the use of USPs which, together with the proportionality principle, are meant to ensure that Solvency II works for all companies, irrespective of their size (SMEs, monoliners). Despite some improvements proposed by EIOPA, Insurance Europe remains concerned by the restricted scope of USPs in terms of areas of application as currently defined in the Delegated Regulation. In addition, Insurance Europe is concerned that EIOPA advises against the introduction of new standardised methods and also rejects any amendments to the current data requirements, which are very stringent and thereby are not conducive to a wider use of the USPs. Insurance Europe strongly believes that the scope of USPs should not be restricted to certain areas, as is currently set out in the Delegated Regulation, but rather expanded to life, health, non-life catastrophe and even operational risk. This enlargement to all areas permitted by the Solvency II Directive is in Insurance Europe's view necessary for Solvency II to be workable for all undertakings regardless of their size, including SMEs/mono liners.	In light of the number of undertaking-specific parameters already approved on premium risk, changing the method for premium risk does not seemed necessary.
176.	Royal Dutch Actuarial	7.1	The information on the use of undertaking specific	Noted.

	Association		parameters by insurance and reinsurance undertakings and by groups provided by EIOPA is very helpful. We encourage EIOPA to provide more specific information of the use per country, and average number of USPs per insurance company/group (for insurance companies having one or more USPs). Moreover, an overview of main reasons why the firm's risk profile for the segments of their USP applications is different from firms represented by the calibration of the Standard Formula might be very helpful and encourage the use of USPs by other insurers / in other countries. Although, the number of USPs being approved is already quite promising, it seems that this is not evenly spread across the various countries and size of insurance companies. In our local country (the Netherlands) there are no insurance companies with an approved USP yet. The interest on USPs seems to be quite weak mainly due to unfamiliarity with USPs, lack of insight in complexity of application (also compared to application of a Partial Internal Model), envisaged problems with data quality and uncertainty to what extent data-adjustments are allowed to correct for underlying assumptions.	
177.	AAE	7.3	**USPs: 387** We agree that adding new methods for USPs for Premium and Reserve Risk would bear the risk of resubmitting already existing USP application, which should be avoided in any case. Therefore, we suggest focusing on simplifying the validation requirements instead of introducing new methods and documentation requirements.	Agreed.

			Paragraph 407: EIOPA had asked stakeholders to provide other methodologies on lapse risk that would solve the issues explained. <u>**Life Lapse risk submodule**</u> **Permanent increase/decrease in lapse risk** **Current Approach according to EIOPA-14-322 "The underlying assumptions in the standard formula for the Solvency Capital Requirement calculation"** • In the current approach for lapse risk the calibration of the shock of the decrease of lapse rates was mainly based on a study of the UK with-profit life insurance market in 2003 performed by order of the British FSA [Financial Services Authority "Calibration of the Enhanced Capital Requirement for with-profits life insurers", 2004; short: FSA04]. • The shock of the increase of lapse rates has been assumed symmetrical. **Impact of lapse risk** Lapse risk is one of the major underwriting risks in life insurance especially if surrender values are guaranteed. The German supervisory report published in 2016 analysing day one reporting shows that prior to diversification life risk makes up 29% of the BSCR requirement, the second most important risk after market risk (78% of BSCR). QIS5 data reveals for a market with guaranteed surrender values that lapse risk drives the life	EIOPA will assess the proposed methodologies for undertaking-specific parameters on lapse risk by February 2018 to the extent resources are available.

			risk module even stronger than longevity risk (43% of life risk is attributed to lapse and just 40% to longevity on the German market). In addition, lapse risk has a high impact on the time value of financial options and guarantees. Finally, lapse rates are of particular significance for business models with guaranteed surrender values. Here, a precise reflection of risk is needed in contrast to business models where surrender values reflect current market conditions or do not contain any guarantees. **Data quality** Insurance undertakings generally perform analyses on specific parameters, which affect their risk profile and contribute to solvency capital requirements materially. One of these parameters is lapse. Especially, undertakings can differentiate between lapse rates by product line. Furthermore, additional differentiations are often possible: time to maturity or elapsed time since issue as well as other determining parameters e.g. sales channel. Time series exist over longer periods, so that undertakings can monitor on the one hand the trend in lapse behaviour, on the other hand this also allows for quantile analysis over time. Of course, size and complexity of the insurer needs to be taken into account by the principle of proportionality. However, data should be readily available and it is usually of a better quality and reliability than data for other underwriting risks. Naturally, data quality has to be checked and proven by the Actuarial Function in line with other data quality validation and is of course subject to further checks by supervisors.	

Lapse rates in the German market

The lapse rates in the German market vary widely. We can identify the following main drivers

- Product mix, since e.g. savings business often has a higher lapse experience than protection business
- Sales channels
- Maturity of the inforce business

The heterogeneous picture with regard to lapse rates is confirmed by data from the German BaFin which contains quantiles of relative lapse rates and shows a high volatility in time and among companies:

	2011	**2012**	**2013**	**2014**	**2015**
95% quantile	8.33%	7.68%	7.64%	7.42%	6.94%
75% quantile	5.48%	5.27%	5.19%	4.77%	4.61%
median	4.18%	4.11%	4.01%	3.78%	3.39%
mean	4.70%	4.53%	4.47%	4.10%	3.76%
25% quantile	3.39%	3.33%	3.39%	2.95%	2.70%
5% quantile	1.93%	1.84%	1.80%	1.77%	1.63%

In addition, with general market data available (1975 – 2014) quantiles have been evaluated to review lapse up and down shock. Data shows quantiles of 99.5% at 10.59% and 0.5% at -11.38%. From our perspective, this indicates that the absolute

			shock parameters currently used in the standard formula might be too high and are certainly not appropriate for a large group of insurance companies. **Overall Solvency Needs** Assessing the overall solvency needs, life insurance companies calibrate the lapse risk according to their specific risk profile. Market experience in Germany tells us that the company specific calibrated lapse risk is usually much lower than the one used in the standard formula. **Conclusion** Given • the substantial impact of lapse risk in the European life insurance market, • the highly company specific characteristics in terms of lapse level and volatility in e.g. Germany, • the fact that lapse is monitored closely especially in life and health insurance business, • the experience companies gained calibrating lapse risk when calculating the overall solvency needs and • the results of the overall solvency needs calculation that suggest that the parameters of the standard formula do not necessarily fit we recommend introducing the possibility of USP for lapse risk. **Permanent increase/decrease in lapse risk** We consider data concerning lapses as readily available and of	

			very good quality, as lapse and lapse risk are usually subject to a close monitoring in life and health insurance. **Input data and method-specific data requirements** The data for carrying out the undertaking-specific stress calibration shall consist of the following: a) data consist of number of lapses and number of total policies potentially differentiated by line of business; b) the data are representative for the lapse risk that the insurance or reinsurance undertaking is exposed to; c) the data are adjusted for any mass lapse occurrences or outliers to the extent that these risks are reflected in the mass lapse risk; d) in case a significant drift in lapse rates over time can be observed, a de-trending is carried out following [FSA04 recital 7.35] e) data are available for at least ten reporting years; **Method specification** In order to calculate the USP for lapse risk we would like to propose the following method. The method is consistent with the shock calibration based on a study of the UK with-profit life insurance market in 2003 performed by the order of the British FSA The objective is to derive a permanent and maturity-independent shock. a) Focus on lapse rates: According to Article 142 of the Delegated Acts, the lapse risk sub-module covers (a) all legal or contractual policyholder rights to fully or partly terminate, surrender, decrease, restrict or suspend	

			insurance cover or permit the insurance policy to lapse and (b) all legal or contractual policyholder rights to fully or partially establish, renew, increase, extend or resume the insurance or reinsurance cover. However, due to the lack of historic data on the use of each policyholder option, the following calibration covers only the pure policy lapses for which data are available. This approach is in line with [FSA04] and [CEIOPS-DOC-42/09, recital C.4]. b) Data collection following [FSA04, recital 7.34]: Collect crude lapse rate data for at least the last ten years, potentially differentiated by line of business. c) Lapse ratio calculation following [FSA04, recital 7.34]: Derive the baseline assumptions using the ratio of the lapse rate in a given year to the corresponding lapse rate recorded in the previous year (short: lapse ratio). d) Fit distribution following [FSA04, recital 7.35]: Assume a log-normal distribution with parameters μ and σ^2 for the lapse ratio. Accordingly, we can estimate the parameters by using moment estimators, i.e. calculating the statistical mean and the statistical standard deviation of the logarithm of the lapse ratio. e) Validate the fitted distribution using a statistical test like the Q-Q-plot. Calculate the 0.5% and 99.5% quantile. f) The quantiles derived in step e) will be used to derive the USP lapse stress by calculating the absolute differences to 100% and using the greater difference for both the up and down shock in order to obtain a symmetrical stress. Remark following [FSA04, recital 7.36]: Using the historical year on year lapse changes will tend to overstate the variability and	

			thus the standard deviation in the fitted log-normal distribution. According to [CEIOPS-DOC-42/09, recital 3.147] the Polish supervisor used the same approach and documented the same caveat: Quantiles based on an annual deviation overestimate the shock of a permanent change. As the chosen approach is rather conservative, we regard it as appropriate for the derivation of lapse rate USP. For lapse risk, one can consider that the derived shocks are in general suited to calculate the corresponding quantiles of the distribution of the liabilities. [FSA04, recital 8.7-8.9] shows the necessary monotony: The more extreme the capital requirement percentile, the higher the "translated" lapse stress in absolute terms. When calculating USP for lapse risk, companies are supposed to calculate a set of sensitivities that refer to different lapse rate percentiles. The resulting liabilities are supposed to show the necessary monotony.	
178.	AMICE	7.3	We would like to make a proposal to extend the application of USPs to the mass lapse risk sub-module. Computing the mass lapse risk on the total insurance portfolio should be allowed when the firm can prove that a mass lapse event would most likely hit the total portfolio. In any case, there can be product groups where it is likely that 'profitable' policies only will be hit by a mass lapse event. ☐ Companies should be allowed to assess the scenarios behind a possible mass lapse event and whether these are realistic or not. For instance, an	EIOPA will assess the proposed methodologies for undertaking-specific parameters on lapse risk by February 2018 to the extent resources are available.

			operational risk event, a change in national legislation, a change in taxation or a movement in the national market (i.e new insurers entering into the market) could be assessed and the impact to the observed lapse rates be quantified. ☐ The USPs parameters could be the result of a multiplier on the observed lapse rates for each product line or LoBs; this approach can be supported by different distributions on the 99.5% quantile. ☐ The mass lapse would then be the result of the observed lapse rates (based on 5 to 10- year history) corrected by the assumed change in the market (plus or minus, depending on the situation) and multiplied by the Var 99.5% factor (e.g. x2 to x3 depending on the underlying distribution) ☐ This method (i.e observed lapse rate, the expected change and the distribution used) would have to be approved by the competent supervisory authority in each country. ☐ Reference to the mass lapse rates could be obtained from the re-insurance market (i.e what would be the price for a one-year mass lapse for certain policies in certain jurisdictions). We would also like to point out that the capital charge of the mass lapse risk sub-module should be different for policies with and without a surrender value.	
179.	Deloitte Touche Tohmatsu	7.3	We agree with EIOPA's statement in paragraph 385: "If some risks are assessed as non-material by (re)insurance undertakings, one would rather expect that simplified calculations are used as a proportionate	Noted.

			way to calculate the SCR standard formula. If not, the deviation in the standard parameters compared to undertaking specific parameters would also be expected to be not material.”	
180.	Direct Line	7.3	Premium Risk non-life: Standard formula considers the Volume measures of premium risk net of reinsurance and gross of commissions. If the commission is paid upfront, it doesn’t generate future cashflow but it increases the Premium volume and accordingly the SCR (with no real risk attached). Proposal : in case the commission is paid upfront (no future cashflow) it can be deducted from the premium volume measure to represent a fair risk	Disagreed. Not in scope of undertaking-specific parameters.
181.	Gesamtverband der deutschen Versicherungswirtsch af	7.3	**Paragraph 387** We wonder why a change in standardized methods may implicate that all approved USP would need to be resubmitted. Our understandig of legal circumstances is that, once approved, USP last until they legally terminate. This includes that they have to be assessed in regular intervals so that there is not more work for NSAs. Moreover, as the undertaking has already to do an extensive assessment of the chosen method compared to other methods including an explanation whether the chosen method is appropriate for the undertaking, we cannot see that more possible methods lead to more work for the NSAs. On the contrary: the assessment of more or other methods may help to validate the results and the reasoning why the chosen method is appropriate.	Disagreed. Changing undertaking-specific parameters methods for premium risk means that all approved undertaking-specific parameters would no longer be compliant with the new regulation. The supervisory authority would have to decide whether the undertaking can remedy the non-compliance within three months. The undertaking will then need to resubmit the application to prove he had restored the compliance with the regulation and proved he fulfil all the requirement of the new method. In light of the number of undertaking-specific parameters already approved on premium risk, changing the method for premium risk does not seemed necessary.

			Paragraph 388 We don't agree with the opinion of EIOPA: The current USP method often does not seem appropriate because of over-parametrisation (estimating 3 parameters from a 10- or 15-year time series). Therefore a robust estimating method like taking empirical standard deviation, which concentrates on 2 paramters is preferable. The second-oder effect for the variance can more likely be considered as LoB-specific than undertaking-specific. Fixing the mixing-parameter delta in advance for every LoB (e.g. delta = 0 or 1) and then taking standard deviations gives robust and stable results over the years compared to the very sensitive current method. **Paragraph 389** We absolutely think, that the proposed method has an additional value. Maximum-likelihood estimation is not generally preferable to other methods of estimation. The proposed method is theoretically sound and easier to handle. **Paragraph 390** We don't agree with the opinion of EIOPA. Though the method was not used to derive the standard parameters in the standard formula, it was statet in the calibration paper (Calibration of the Premium and Reserve Risk Factors in the Standard Formula of Solvency II, Report of the Joint Working Group on Non-Life and Health NSLT Calibration, 5. August 2011):	Disagreed. The current USP methodology for premium risk does not seem to raise concerns. The main difficulty seems to be linked with log-normal assumptions. The log-normal assumption is needed in order for the methodology of multiplying three times the standard deviation with the volume measure to comply with the calibration requirement at the 99.5% Value-at-risk. The two methodologies that propose to consider trends and cycles seem more difficult. First, trends and cycles should already be captured in the volatility parameter. Second, drawing trends require a long set of data. Finally it is not a method that was used to derive the standard parameters in the Standard Formula.

			5.4 Underwriting cycle effects in premium risk *114. Premium is a poor proxy for exposure owing to the fact that it is itself an estimate. Indeed, the main sources of misstatement of premium are the use of unreliable or unrepresentative data, errors in estimation of key parameters and the effects of commercial pressures and the underwriting cycle. The underwriting cycle is driven by results in the overall insurance market, the market segment itself and the general business cycle. Other things being equal, the effect of the cycle becomes more pronounced in lines of business where the length of claims tail and/or the capital (and risk) intensity is increased.* *115. The JWG recognises the possible existence of an underwriting cycle but did not find it practicable to incorporate or embed an explicit recognition of such cycles into the calibration methodology. To achieve such an implementation, knowledge on the position of the premiums on the underwriting cycle would need to be available. Then, volatilities would become dependent on the current premium-position, in the end resulting in lower or higher undertaking-specific volatilities. The current statistical approach is more pragmatic and is based on an averaging 'look-through' analysis.* *116. However, this issue should be analysed further in future calibration exercises.* So: Existing trends and cycles are part of the systematic component of the claims- and/or premium-process, whereas the premium risk includes only the random component. Therefore our proposal seems appropriate for undertakings which are able to identify their trends or cycles (e.g. from long timeseries). Moreover, the proposed third method does not	Because of timing and resources constraint the possibility to introduce undertaking-specific parameters in the natural catastrophe risk will only be investigated by EIOPA at a later stage. Noted.

			require the exact formulation of trend/cycle – only their existence is assumed. **Paragraph 399** We appreciate the opinion of EIOPA that potential USP for natural catastrophe risks are proposed to be investigated by the Catastrophe Risk Work Stream of EIOPA. **Paragraphs 399 & 403** GDV welcomes that standardised USPs methods for mortality and longevity risks may be considered at a later stage once recalibration works are over. GDV strongly believes that the scope of USPs should not be restricted to certain areas, as is currently set out in the Delegated Regulation, but rather expanded to life, health, non-life catastrophe and even operational risk. This enlargement to all areas permitted by the Solvency II Directive is in GDVs view necessary for Solvency II to be workable for all undertakings regardless of their size, including SMEs/mono liners. **Paragraph 407** Appreciated. GDV stands ready to discuss other methods with EIOPA.	Noted.
182.	Insurance Europe	7.3	**Paragraph 384** Insurance Europe believes that the requirements to assess completeness, accuracy and appropriateness of the data are very stringent and therefore disagrees with EIOPA's assessment that there is already enough flexibility in the Delegated Regulation regarding these.	Disagreed. See response to comment 174.

			As the call for advice precisely calls on EIOPA to assess the criteria that must be met to fulfil these standards, Insurance Europe reiterates the issues and suggestions already provided in its response to the discussion paper regarding ways for relaxing the data criteria as defined in Article 219 of the Delegated Regulation: Article 219 b and d of the Delegated Regulation pertains to data being capable of being incorporated into the standardised methods. However, the strong requirement in the use of prescribed methods does not allow undertakings to exert their expert judgement through experts (eg actuaries) when dealing with the set-up of the USPs (in terms of data, assumptions and methods). Indeed, data can be not entirely complete for the use of a prescribed method and therefore, the requirements on data criteria can be improved by laying down that expert judgment may be relied upon to deal with this issue (eg selection of a different range for the data, selection of appropriate assumptions and/or statistical/actuarial methods). In addition, the draft Delegated Regulation sets out already very prescriptive rules on data quality standard. However, these requirements should be such that if a segment or a line of business is not material to the undertaking, the data quality standard could be relaxed. The data criteria should not be counterproductive by setting much too high barriers and thereby limiting or discouraging the use of USPs. **Paragraphs 386 & 387** Insurance Europe has provided the four methods listed for	Disagreed. See response to comment 174. Disagreed. Undertakings should ensure that the criteria on data quality are met regardless of the materiality of the segment for which undertaking-specific parameters are used. The use of undertaking-specific parameters for a segment or a line of business which is not material to the undertaking is also somehow surprising since it will also not be material for the undertaking if the SCR is calculated with the standard formula. Disagreed. See response to comments 175

			premium risk in its response to the EIOPA discussion paper on the Solvency II review. Insurance Europe would like to point out that the methods were provided not as a replacement of the current method as EIOPA seems to suggest, but rather as additional methods to choose from. Insurance Europe notes that an extensive assessment of the chosen method is already required and does not believe that the introduction of additional methods would result in significant extra work for undertakings or supervisors. On the contrary, the assessment of more, or other, methods may help to validate the results and strengthen the reasoning of the chosen method. **Paragraph 388** Insurance Europe does not agree with EIOPA's assessment that the empiricial standard deviation is not appropriate. The current USP method often does not seem appropriate because of over-parametrisation (estimating 3 parameters from a 10- or 15-year time series). Therefore, a robust estimating method like taking empirical standard deviation which concentrates on two parameters is preferable. The second-order effect for the variance can more likely be considered as a LoB-property than a undertaking-specific property. Fixing the mixing parameter delta in advance for every LoB (eg delta = 0 or 1) and then taking standard deviations gives robust and stable results over long term compared to the very sensitive current method.	and 181. Disagreed. See response to comment 181. The method is indeed simple in computation and assessment but does not take account of 2nd order effect such as quadratic variance. Disagreed. See response to comment 181. Disagreed. See response to comment 181.

			Paragraph 389 Insurance Europe disagrees with EIOPA that the proposed method has no additional value. Maximum-likelihood estimation is not generally preferable to other methods of estimation. The proposed method is theoretically sound and easier to handle. **Paragraph 390** Insurance Europe references paragraphs 114 to 116 of "Calibration of the Premium and Reserve Risk Factors in the Standard Formula of Solvency II, Report of the Joint Working Group on Non-Life and Health NSLT Calibration, 5. August 2011" which concludes that existing trends and cycles are part of the systematic component of the claims- and/or premium-process whereas the premium risk only includes a random component. Insurance Europe therefore believes that proposals are appropriate for undertakings which are able to identify their trends or cycles (eg from long time series). Indeed, the third method proposed does not require the exact formulation of trend/cycle as only their existence is assumed. **Paragraphs 396** Insurance Europe welcomes the introduction in the Delegated Regulation of a USP that would cater for the adjustment factor of stop loss reinsurance contracts. This is seen as an improvement, as at this stage only excess of loss reinsurance contracts qualify for the unique method.	Noted. Noted. Because of timing and resources constraint the possibility to introduce undertaking-specific parameters in the natural catastrophe risk will only be investigated by EIOPA at a later stage. EIOPA will assess the proposed methodologies for undertaking-specific parameters on lapse

			Paragraphs 399 & 403 Insurance Europe welcomes that USPs for nat cat will be investigated by the EIOPA CAT WS once simplification and recalibration works are over. Equally, Insurance Europe welcomes that standardised USPs methods for mortality and longevity risks may be considered at a later stage once recalibration works are over. Insurance Europe strongly believes that the scope of USPs should not be restricted to certain areas, as is currently set out in the Delegated Regulation, but rather expanded to life, health, non-life catastrophe and even operational risk. This enlargement to all areas permitted by the Solvency II Directive is in Insurance Europe's view necessary for Solvency II to be workable for all undertakings regardless of their size, including SMEs/mono liners. **Paragraph 407** Insurance Europe believes the stress factor of the mass lapse risk (Article 142(6)) is not appropriate, as there is no clear evidence for the current discontinuance of 40 % of the insurance policies by default and for all types of contracts. Experience from several European markets shows that - in practice - the levels are significantly lower (see also CEA comments on Ceiops' CP49 on the Mass Lapse from October 2009). Against this background, it should be made possible to use USP's. Insurance Europe believes that EIOPA should consider and investigate alternative approaches for using USPs in the case of lapse risk. One possible methodology that should be considered	risk by February 2018 to the extent resources are available.

			is as follows: **Input data and method-specific data requirements** 1. The data for estimating the undertaking-specific mass lapse rate shall consist of the following: • on a monthly basis, the number of lapses and number of total policies exposed to lapse risk differentiated by line of business or, if motivated, by homogeneous risk groups; 2. The following method-specific data requirements shall apply: • the data are representative for the lapse risk that the insurance or reinsurance undertaking is exposed to during the following twelve months; • data are available for at least five consecutive years; **Method specification** In order to calculate the USP for mass lapse risk Insurance Europe would recommend using the following method for each group referred to in paragraph (1) a: a) Calculate the observed monthly lapse rates where the lapse rates are given as number of lapses over number of business in force exposed to the lapse risk. b) Recalculate the observed monthly lapse rates (mlr) to yearly lapse rates (ylr) by using the formula . c) Assume a distribution for the lapse rates and fit the parameters. (Probably a more heavy-tailed distribution than the normal distribution, like the t-	Disagreed. The six months approval process was very useful for undertakings to have time to adapt and correct their application file in light of the eventual shortcoming of their application and thus be able to reach the required quality for their application to receive an approval. See response to comment 174.

			distribution) d) Calculate the 0.5% and 99.5% quantile. **Paragraphs 411** Insurance Europe disagrees with EIOPA's assessment that there are no valid reasons to review data requirements. In paragraph 384 above Insurance Europe identifies some issues and suggests ways to relax the criteria on data quality. Similarly, Insurance Europe notes that there are significant concerns on the USPs approval process also. Specifically, at this stage the ITS on supervisory approval of USPs foresee a limit of 6 months, ie on equal footing with the very much more complex process of an Internal model approval. This timeframe is very long and, on top, at the end of the 6 months the USPs cannot be considered as approved if no decision was reached by the supervisor. Overall, the uncertainty of the approval process, combined with the stringency of the data quality criteria, discourages undertakings to take the USPs route. **Paragraph 415** See comment provided to paragraph 384 about the mandate given by the call for advice regarding assessing the criteria to be met. Insurance Europe agrees that the Solvency II directive requires NSAs to verify the completeness, accuracy and appropriateness of the data. However, there is flexibility in terms of the criteria that are used to assess these standards as	

			evidenced by that language used in the call for advice, namely: "*EIOPA is asked to […] and assess any criteria with respect to the completeness, accuracy and appropriateness of the data used that must be met before supervisory approval is given. […]*".	
183.	KPMG	7.3	On paragraph 384, we agree with the assessment that expert judgement should not be applied to missing data, but only to adjust existing data. On paragraph 390, we challenge the reasons given for not further assessing method c&d from paragraph 386. In principle, making the trends and cycles explicit in the modelling will improve modelling quality. Although this indeed requires a long set of data, allowing undertakings to choose from such models, provides an opportunity to better align the parameters with the undertaking. We do agree with the observation from 387 that increasing the number of models to choose from, also increases the burden for undertakings to explain which model is most appropriate for them. Therefore we would propose to further assess these methods to balance the pros and cons. On paragraph 404, we challenge the rejection of the country specific shocks on mortality on the reasoning given. Different countries have different life expectancies, different health care systems and in general life expectancies and mortality rates might be more or less volatile. We suggest to research whether	Agreed. The two methodologies that propose to consider trends and cycles seem more difficult. First, trends and cycles should already be captured in the volatility parameter. Second, drawing trends require a long set of data. Finally it is not a method that was used to derive the standard parameters in the Standard Formula. Country specific parameters would not be in line with the framework of the Solvency II Directive, hence they are not further considered.

			mortality and longevity risks are equal over countries or not and then decide whether country specific shocks are required.	
184.	Munich Re	7.3	Regarding the proposed methodology for lapse risk calculation (paragraphs 405-407) we have the following remarks : - We recommend to waive the differentiation by maturity buckets. - A split into lines of business should not be made mandatory but should only be carried out if reasonable/valuable. - In particular for lapse risk we assume that all companies have long term data available. Therefore we would recommend to use a 10 year history instead of 5 years.	Noted. EIOPA will assess the proposed methodologies for undertaking-specific parameters on lapse risk by February 2018 to the extent resources are available.
185.	Royal Dutch Actuarial Association	7.3	**Data quality** Article 219 of the Delegated Regulation does indeed provide further information on the data completeness criteria. Nonetheless more practical guidelines would be highly appreciated. For example, it is required that data are free from 'material errors' (paragraph 2 of Article 19 of the Delegated Regulation). However, a definition of 'material error' is not provided. **Data adjustments and proof of data appropriateness:** Furthermore, with respect to data adjustments it is clear that this is allowed for making historical data better reflect the underlying risk over the next 12 months as well as including	See response to comment 174.

			adjustments with regard to reinsurance and catastrophe claims and about the allocation of expenses. However, it is still unclear to what extent data-adjustments are also allowed to correct for underlying assumptions. For example, one important underlying assumption for the premium risk method is that aggregated losses are linearly proportional to earned premiums in a particular accident year. Although we agree that this simplification in general holds for insurance companies (with expected stable loss ratios) and therefore is a fairly good approximation for the premium risk, this assumption does not hold for specific situations and can have quite a significant impact on the premium risk being calibrated. Particularly for Dutch health insurers this assumption does not hold by definition since the Dutch Regulator requires an explicit link between the commercial premium set by the insurance company and its capital management policy (http://www.toezicht.dnb.nl/en/2/51-235836.jsp attachment 'Capital Management Policy – Principles and expectations' dd December 2016) : *« Health insurers integrate their policy on setting premiums into their capital management policy ».* *Specific expectations regarding Principle 6: ▪ Health insurers integrate their premium policy into their capital management policy. This states clearly how available capital can be used when setting future premiums. ▪ As the setting of capital buffers impacts health insurers' premiums levels, the choice for a*	

			particular internal target involves more than just a risk assessment for health insurers from a social point of view. Given the mandatory nature of basic health insurance, health insurers are able to justify their safety margin both to DNB and to their external stakeholders. In practice this means that the difference between the commercial premium (i.e. the earned premium) and the technical premium (i.e. the expected losses + cost loadings) could vary significantly over the years, depending on the solvency capital position of the insurer(s). The commercial premiums should include a capital add on if the solvency ratio is below certain threshold or a capital deduction if the solvency ratio is above a certain threshold. In short, Dutch health insurers are requested to give money back to the policyholders if there is a certain surplus and vice versa. Therefore the assumption of constant loss ratio (i.e. aggregated losses being proportionate to the earned premiums) by definition does not hold. The loss ratio as defined by the aggregate loss as percentage of earned premiums varies from year to year even when the aggregate loss as percentage of the technical premiums is constant. By using the requested input data 'earned premiums' some of the volatility that is captured is due to foreseen losses/profits in the earned premiums and hence the premium risk is potentially being overestimated when using the defined input data and method. <u>Proposed solution:</u> This could easily be adjusted by taking part of the premium that is not affected by the capital management policy. For example by using the technical premiums (in fact	Disagreed. The limit between (partial) internal model and undertaking specific parameters are defined in the solvency II regulation and where an undertaking could not comply with

			being the expected aggregated losses + cost loadings primo year when the premiums were being set) or the risk premiums (in fact being the expected aggregated losses primo year when the premiums were being set) instead of the commercial premiums. For Dutch health insurers the aggregated losses primo year are fairly easily available since the (risk) premiums are set once a year containing the expected losses primo year. It would be very helpful to specify allowance of such adjustments under the USP framework in the regulation. Currently, the border between USP / (partial) internal model is not clear. We feel that insurers might tend to apply for internal models for cases that in fact could be easily captured within the USP framework, if such data adjustments are allowed. **Other proposals on USPs** For premium and reserve risk only the standard deviation parameters are subject to USP but not the volume measures. However, when data adjustments are made for calculating the standard deviation (as discussed above) such that the actual risk is better captured, then the volume measures should be corrected accordingly. This is currently not possible. Moreover, when using the current volume measure for premium risk as being defined as earned premiums (based on the commercial premiums), the risk is overestimated when the commercial premium is set higher than the technical premium (due to capital add on leading to a higher solvency capital requirement) and underestimated when the commercial premium is deliberately set lower than the actual technical	the requirements of the undertaking specific parameters he could apply for an (partial) internal model. Disagreed. Volume measure is already undertaking specific.

			premium (due to capital deduction leading to a lower solvency capital requirement). ➔ *Therefore, also for the volume measures for premium and reserve risk we request that data-adjustments should be allowed to better capture the actual underlying risk.* **The use of GSPs – data quality requirements** Missing data As commented in the first consultation round, the criteria of using the same data length for all undertaking being aggregated at group level is limiting the data to the minimum data length available. We agree that data quality is an essential requirement for GSP and therefore it would not be justified to compute GSP based on data that are not complete, accurate and appropriate. However, what does this mean for the specific situation that the group launches a new undertaking and/or took over an undertaking from another insurance group in the past (i.e. due to M&A)? In that case, by definition there is no more historical data for that new undertaking and hence the use of GSP is no longer possible for that insurance group. ➔ *Could EIOPA clarify these specific (M&A) situations with respect to missing data not related to poor data quality but to non-existing data and the implications on the use of GSPs?* Undertaking with poor data – use of external data Furthermore, we don't fully understand the response with	Possibility to use external data is foreseen in this case. Noted. Logically this mean that the calibration for the group standard deviation can be based on the group data excluding that particular undertaking with poor data quality and providing the required evidence that the group data can be used as external data for this undertaking (evidence that the risk is similar as specify in paragraph 2 of article 219 of the Delegated Regulation). Disagreed to introduce such proposal: it seems indeed a more complex solution.

			respect to the use of 'external data' for the computation of USP in the context of GSP (416). If the data quality for some undertaking (solo) is of poor quality, it is suggested that the group data should be seen as 'external data' and should meet the specific requirements related to external data. However the group data also contains the data for that particular undertaking. Hence, how does this improve the quality of the data for the calibration of the GSP? This seems more a solution for the computation of the USP for a specific undertaking than for the computation of the GSP for the group? ➔ *Or does this mean that the calibration for the group standard deviation can be based on the group data <u>excluding</u> that particular undertaking with poor data quality (assuming the risk is similar or immaterial)?* **The use of GSPs – allowing combinations of USPs as a way to calculate GSPs** (417) We agree that the solution briefly described to allow combinations of USPs as a way to calculate GSPs are not considered to reflect the risk of the group in an appropriate manner. The linear combination of volatilities does not lead to an appropriate volatility at group level. <u>Proposed solution</u> : A technically better solution would be to use a <u>panel data method</u> as discussed in the Joint Working Group Paper on Non-Life and Health NSLT Calibration paper (EIOPA-11-163 ; as of page 53). This would lead to the use of a loss ratio per undertaking but a standard deviation that is the	Not in scope of USP.

			same for all undertakings within the group. However, we note that this would be technically more complicated. **The use of GSPs - practical implication when redistributing of capital between undertakings within group is or is not allowed.** More importantly, in our view the main question is whether insurers are allowed to redistribute capital between undertakings or not? ➔ *Could EIOPA clarify if there is any Solvency II regulation determining whether redistribution of capital between undertakings within a group is allowed or not?* If so, then we believe that the current method for calibrating the group standarddeviations based on the consolidated group data (as described as the preferred consolidation method 1 by EIOPA) is the best way to capture the risk of the group. The group specific parameters then will take into account some diversification/scaling effect and hence generally lead to lower standard deviations at group level than at (re-)insurance undertaking level. However, if it is the case – as various insurers tend to believe – that redistribution of capital is not allowed between undertakings within a group, then we believe that this preferred method 1 would lead to underestimating the real risk of the group since the group cannot benefit from scaling/diversification effect. I.e. when capital cannot be redistributed between undertakings, what would be the rationale to have group specific parameters and use	Noted. If GSP are not used and standard formula is used at group level, the parameter of the standard formula should be used for the computation at group level.

			consolidation method 1? Of course it would lead to show lower SCRs and hence better SCR ratios at group level, however, is this right if in fact that diversification effect does not hold in practice? So does the consolidation method therefore not depend on the question whether capital is allowed to be redistributed between undertakings within the group or not? ➔ *It would be very helpful if EIOPA could clarify in the regulation whether redistributing capital between undertakings is allowed or not, and what the implications are for the consolidation method to apply for the group (method 1 or 2)?* <u>Inconsistency with article 149 of the delegated regulation with respect to the calculation of the standard deviation for undertakings that are partially subject to Health risk equalisation system.</u> Moreover, we note that for undertakings that have a portfolio that is partially subject to HRES risk equalisation, the standard deviation for that undertaking is actually defined as the weighted average of the HRES standard deviation and the non-HRES standard deviation. Therefore, allowing for the use of GSP as a weighted average of USPs would be consistent. If this is not appropriate, then the calculation of the standard deviation for an undertaking that is partially subject to HRES should be adjusted as well and it should be allowed to calibrate one standard deviation for the undertaking using the aggregated data for that undertaking (without making split between portfolio that is subject to HRES and portfolio that is not subject	

			to HRES) **The use of USPs but no GSPs – how then to report the group standard deviations?** If an insurer applies for one or more USPs but not for GSP, how then to determine and report the group standard deviation? In such cases, how is the Group SCR then calculated? By using consolidation method 2 i.e. taking the sum of the SCRs of the individual undertakings? And does a group standard deviation need to be reported then? (By deriving this from the resulting group SCR?) or is reporting of the group standard deviation not required?	
186.	AAE	7.4		
187.	AAE	7.4.2	Stop Loss USP (paragraphs 438) The section includes a new proposed USPs for stop loss reinsurance. We welcome this, as stop loss covers are becoming quite common. We have not analysed the proposed methodology at this stage but would make the same point as above that applying for a USP is an onerous process and many insurers are not in a position to do so (see 5.3). Again, larger internal model companies are at an advantage.	Disagreed with the statement "applying for a USP is an onerous process and many insurers are not in a position to do so", in light of the number of USP already approved.
188.	Gesamtverband der deutschen Versicherungswirtschaf	7.4.2	Paragraph 438 We appreciate that the stop loss-method is added.	Noted.

189.	Insurance Europe	7.4.2	Paragraph 438 Insurance Europe welcomes the proposal to include a new USP method for stop-loss.	Noted.
190.	Royal Dutch Actuarial Association	7.4.2	Information on the use of USPs by (re)insurance undertakings and groups See comments in 7.1 : We encourage EIOPA to provide further information on this such as : - information of the use per country; - average number of USPs per insurance company/group (for insurance companies having one or more USPs); - and the rationale for applying for USP. I.e. the main reasons why the firm's risk profile for the segments of their USP applications is different from firms represented by the calibration of the Standard Formula. This would help to further encourage the use of USPs by other insurers / in other countries. Although, the number of USPs being approved is already quite promising, it seems that this is not evenly spread across the various countries and size of insurance companies.	Noted.
191.	AAE	7.4.3	Paragraph 451: Typo: should be paragraph 453	Noted.
192.	AMICE	7.4.3	Error in Article 218 – Subset of Standard Parameters	Disagreed. Article 218 is correct.

			that may be replaced by undertaking- specific parameters Last paragraph of Article 218 reads as follows: « Insurance and reinsurance undertakings shall not replace both the standard parameters referred to in point (a)(ii) and (iii) of the same segment or both the standard parameters referred to in point (c)(ii) and (iii) of the same segment » ☐ (a)(ii) and (c)(ii) refers to the premium risk gross of reinsurance ☐ (a)(iii) and (a)(iii) refers to non-proportional reinsurance We understand there are some mistakes in the references as it is the standard deviation for non-life premium/ NSLT health premium (i.e net of reinsurance) the ones which cannot be replaced at the same time than the adjustment factor for non-proportional reinsurance. The paragraph should be amended as follows: « Insurance and reinsurance undertakings shall not replace both the standard parameters referred to in point (a)(i) and (iii) of the same segment or both the standard parameters referred to in point (c)(i) and (iii) of the same segment » Annex XVII	The work of Massimo de Felice and Franco Moriconi was discussed and shared within the dedicated working group at EIOPA when published in 2016.

			Some flexibility should be allowed for in the implementation of the statistical tests (see Annex XVII of the Solvency II Delegated Acts) and in the interpretation of the results both considering the scarcity of data available and also taking into account that some of the assumptions to be tested are very strong and not completely realistic. Evidence of this is provided in Massimo de Felice, Franco Moriconi University of Perugia, October 2016, "On the Estimation of the Undertaking-Specific Parameters and the Related Hypothesis Testing"	
193.	Insurance Europe	7.4.3	Paragraph 447 See comment provided to paragraph 415 about the mandate given by the call for advice regarding assessing the criteria to be met. Paragraph 449 See comment provided to paragraph 432. EIOPA contradicts itself with the statement made in paragraphs 403 and 407.	See response to comment 182.
194.	KPMG	7.4.3	On paragraph 449, the list of risks for which stakeholders have proposed methods, is incomplete. Stakeholders have also proposed the possibility to develop standardized methods for natural catastrophe risk (see paragraph 397-399). For both natural catastrophe risk and mortality/longevity risk, it was	Noted.

			earlier stated that methods for USP may be considered at a later stage (paragraph 399 and 403 respectively). We propose to rephrase the advice in paragraph 449 such as to reflect the fact that further work is currently on-going regarding the calibration of mortality and longevity risk and regarding natural catastrophe risk, rather than stating that the methods have been assessed as not being appropriate.	
195.	Allianz SE	7.4.4	We appreciate the proposal to include an additional USP method for stop-loss reinsurance.	Noted.
196.	Gesamtverband der deutschen Versicherungswirtschaf	7.4.4	Paragraph 453 We appreciate that the stop loss-method is added.	Noted.
197.	KPMG	7.4.4	Following equation (7) from the derivation in paragraph 438, the term "2(b_2-b_1)(mu_2-mu_1)" in the formula for NP' should read "2(b_2-b_1)(mu_2-mu)" in sub 5) of the new article.	Agreed. Formula was corrected.
198.	AAE	8.1	See general remarks 457. In this first response to the Call for Advice EIOPA will only address the request for information from the European Commission and will not yet come up with any advice on possible changes in the Delegated Regulation. EIOPA will continue working on supervisory convergence and, if deemed necessary, may advise changes in the Delegated Regulation in its second response to the Call for Advice.	Regarding the level playing field EIOPA strives for harmonization in assumptions and supervisory approaches to LAC DT; all else being equal, undertakings with similar risks in similar situations should have a similar LAC DT and SCR. EIOPA does not intend to harmonize tax regimes or disregard differences in tax regimes. Differences in tax regimes may very well result in undertakings with similar risks being in dissimilar situations, with justified differences in LAC DT. For example,

			Regarding the aim of EIOPA:s work and efforts, which was stated in point 457, we keep it highly important that the following topics should be kept in focus in the future work of EIOPA: Level playing field: We acknowledge that supervisory convergence is of utmost importance to achieve a level playing field for undertakings. This must not lead to an equal treatment that ignores national specifics. It might be recommendable to identify some principles that can help NSAs to consistently assess the adequacy of the application in their particular country. As every EU member state has its own specialties in their taxation framework and also as the LAC-DT has been interpreted in quite various ways by different NSA's and insurance companies there seems to be a unawareness amongst insurers of the different features and principles of LAC DT. This brings the need of the better clarification of LAC DT to ensure the level playing field. We find several topics where EIOPA could concentrate in their future work with LAC DT to ensure the level playing field. Some of these are already partly covered in this consultation paper: - Whether a country or company is in a DTA position or DTL position seems to matter a lot - Having adequate DTL for maximum LAC DT tends to lead to less pressure on LAC DT from future profits (relatively obvious), and only required to show the SII	undertakings in jurisdictions with relatively more favourable tax regimes or higher tax rates will, all else being equal, have a higher LAC DT and thus a lower SCR. Deferred taxes are indeed about (dis-)advantages of paying more or less taxes than a similar undertaking without any tax history. LAC DT reflects the change in this (dis-)advantage after the bSCR* shock loss. The open questions indicate the differences in the demonstration of the probable utilization of net DTA after the shock loss as well as the current differences in supervisory practices. EIOPA agrees that harmonization of supervisory practices would help. Regarding the underlying causes of LAC DT EIOPA agrees that these can have an impact on the ability to demonstrate that the level of LAC DT is appropriate. EIOPA finds a reduction in net DTL, taking account of possible limitations by the applicable tax regime, a source to demonstrate the probable utilization of LAC DT. Potential sources of future profits to demonstrate the probable utilization of net DTA after the shock may stem from new business or returns on assets. EIOPA finds that economic profits are required to support any net DTA after the shock loss.

			ratio will be back above 100% within 3 to 6 months and recoverability of loss can be shown. Not for LAC DT level as such; - Different loss carry forward rules have an impact on LAC DT, depending on the maturity these should be taken into account. (- The meaning of "level playing field" might need to be opened to better understand the issue. Solvency II is a post-tax system and local tax rules have to be applied as they are under IFRS. As this holds true for the valuation (i.e. own funds) as well as for the stressed case (LAC DT), there will be different starting positions for companies, which might or might not be an level playing field issue. Furthermore being a post-tax supervision framework means that all fiscal differences must be fairly reflected. This can be quite a burden. - There seems to be a broad consensus that LAC DT up to the amount of net DTL (t=0) is acceptable (as long as netting DTL and DTA is admissible of course) - What are (if any) the potential sources of future profits to support DTA (essentially the same in base case as in stressed case) Complexity: We find the open questions relating to LAC DT keeping this issue complex. In the future work and analysis, EIOPA could aim at a clarification of the principles behind LAC DT, taking into consideration the unchangeable national frame conditions. A	Undertakings themselves decide on the sources for these profits and take account of the market consistent valuation principles of Solvency II. Regarding common language EIOPA agrees that LAC DT from net DTA indeed reflects where supervisory approaches differ. In terms of physical transfers of money from the tax authority to the undertaking, EIOPA understands that there are some jurisdictions where this might occur after a severe shock. For example, in case of carry-back or where quarterly tax payments are payable in advance.

			harmonization of the calculation could help to reduce the complexity and take away uncertainty. Complexity is a serious cost-issue, requiring significant key resources, for both regulators and insurers. This will also have an impact on how those insurers with limited resources can comply with the legislation. Agree on the underlying causes of the LAC DT: We find that it is utmost important to understand and agree on what is the phenomenon causing LAC DT. 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. For instance when there's a change in netDTA it 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 a different approach in the recoverability assessment based on the going concern assumption. Whether an insurer recognised all three causes depends on the actual fiscal legislation and treatment of changes in valuation, which might differ per Member State.	

			Agree on a common language: It seems that EIOPA have already started their work by opening up several of the different features. Anyway, any misleading approaches to describe the phenomenon need to be corrected. This would also help stakeholders to be better prepared to discuss and understand the issues around LAC DT: - It should be avoided to use "LAC DT from future profits" as also LAC DT supported only by DTL is supported by future profits, but essentially future profits exist in the SII metric already at t=0. The crucial point with DTA is, that one has to prove that it is probable that future taxable profit will be available, against which the deferred tax asset can be utilized. It could rather write as "LAC DT from DTA" (or something similar). - Losses. As LAC DT is not about the tax authority physically transferring money to the insurer, it seems fairer to describe these losses as opportunity losses. They are relative 'losses', compared to a fictive 'gross shock' situation in which the insurer would pay more taxes. Technicalities behind the calculation of future profits: Already highlighted by EIOPA but should be recognized even more. The overall principles behind the valuation of future profits and the rationale when, how and in which circumstances this calculation should be explained in insurers' solvency report. In addition, principles behind some specific details, e.g. what kind of	

			management actions, needs to be commonly agreed.	
199.	AMICE	8.1	When assessing whether EIOPA should provide more advice on possible changes in the Delegated Regulation, the European legislator should explicitly make sure that the advice is aligned with the different local fiscal legislations. As the tax regimes do differ significantly across Member States and also differ across the type of insurance business (i.e differ across LoBs), the requirements should not be too restrictive which could have a very negative effect on the solvency positions and required capital of distinct business lines. In assessing the LAC_{DT} EIOPA should still take into account that the LAC_{DT} is determined on a going concern basis according to Article 101 (2) of Directive 2009/138/EC. This is fundamentally the starting point in the various assessments needed for evidencing the LAC_{DT} outcomes.	Regarding the differences in tax regimes and their impact on LAC DT see 198 above on the level playing field. EIOPA agrees that LAC DT should be calculated by an undertaking from a going concern perspective, with specific regard to the circumstances of the undertaking in the post shock environment.
200.	Deloitte Touche Tohmatsu	8.1	Article 15.3 of the Delegated Regulation sets out a seemingly simple rule for when deferred tax assets should be valued – a "probable" test. Despite this, many materials have been produced, by NSAs, commentators and firms, re-interpreting and sometimes changing this test. In our view, as long as Article 15 is unchanged, EIOPA guidance should place emphasis on applying the "probable" rule in the Regulation. It may be that the simple "probable" rule in Article 15 (which reflects the IAS 12 'temporary difference with no discounting' approach) is not seen as adequately	EIOPA agrees that the valuation of DTA for both the balance sheet and for the purpose of LAC DT need to meet the probable criterion in Article 15 of the Delegated Regulation.

			addressing the needs of a solvency regime. If this is the case, then the solution should be to amend Article 15.	
201.	Dutch Association of Insurers	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.	Regarding the differences in tax regimes and their impact on LAC DT see 198 above on the level playing field. Potential sources of future profits to demonstrate the probable utilization of net DTA after the shock loss are new business and returns on assets. EIOPA finds that economic profits are required to support any net DTA after the shock loss. Undertakings themselves decide on the sources for these profits and take account of the market consistent valuation principles of Solvency II. Regarding the technicalities behind the calculation of future profits, EIOPA has provided some principles. Regarding the going concern situation see 199 above.

202.	Gesamtverband der deutschen Versicherungswirtschaf	8.1	There is no need for changes in the Delegated Regulation regarding the loss absorbing capacity of deferred taxes (LAC DT). EIOPA's task asked for by the European Commission is completed with the report in this consultation paper. In any case, the true loss absorbing capacity of deferred taxes must be fully recognized in the SCR. To limit the adjustment for LAC DT on the amount of net DTL is not justified. In addition, the projections backing DTA must not be artificially capped. Increasing uncertainty is not a bigger problem than in other pillar I calculations. Arbitrary restrictions of LAC DT would systematically distort results and, thus, be contradictory to the Directive.	In the first set of advice EIOPA indeed answers the questions raised by the European Commission. EIOPA agrees that arbitrary restrictions would be unhelpful. In the second set of advice EIOPA shall propose some principles which aim to harmonise the assumptions and supervisory approaches to LAC DT; all else being equal, undertakings with similar risks in similar situations should have a similar LAC DT and SCR.
203.	Institut des Actuaires (France)	8.1	As evidenced in the advice, national supervisory authorities have different approaches to LAC DT, and in particular as to which extent LAC DT can be supported by evidence of future taxable profits. Institut des Actuaires welcomes EIOPA's announcement to continue working on supervisory convergence on this issue but underlines that it should be done by preserving the economic perspective inherent in Solvency II. In particular, there should be no systematic limitation of LAC DT to the amount of the net DTL recognised in the Solvency II balance sheet.	EIOPA shall not advise to generally limit LAC DT to the net DTL on the balance sheet of an undertaking.
204.	Insurance and Reinsurance Stakeholder Group	8.1	The IRSG has read with great interest the material provided for consultation by EIOPA on LAC DT, which is	See 202 for EIOPA's approach to the Commission's request on LAC DT for the SCR review.

	(IRSG)		the result of the investigations carried out by EIOPA for understanding the various NSAs' practices to deal with LAC DT across Europe. As such, the IRSG considers that - once the analysis is complete - EIOPA will have delivered on its mandate from the EC which states: *"The calculation for reduction in capital requirements due to a deferred tax adjustment is complex, and requires a high level of supervisory judgement, resulting in possibly divergent practices in member states. EIOPA is asked to report on the different methods currently applied and on their impact."* The IRSG notes however that EIOPA stresses on paragraph 455 that it is only the part of LAC DT that is demonstrated by future profits where NSAs have different approaches. EIOPA states subsequently that *"EIOPA will continue working on supervisory convergence and, if deemed necessary, may advise changes in the Delegated Regulation in its second response to the Call for Advice"*. The IRSG understands therefore that, if further work on convergence is deemed necessary by EIOPA, it will be in the area of future profits. However, should EIOPA carry on with that work, the IRSG has the following comments it believes should be taken into account: • LAC DT should be calculated in line with the principles of IAS 12 applying the relevant fiscal rules of the countries in which businesses operate.	Undertakings value deferred taxes on a market consistent basis as referred to in Article 15(1) of the Delegated Regulation by a reference to the general Article (9); the Solvency II valuation is based on generally accepted accounting principles, like IAS12, to the extent they comply with the market consistent valuation principle of Solvency II. See 201 above for a response to the comments regarding future profits. Future management actions are only applicable in the stress-based scenario calculations for the Basic SCR; LAC DT is not part of the Basic SCR. EIOPA discusses future management actions in the second set of advice. For the demonstration of probable future profits both limitations and opportunities of the applicable tax regime should be taken into account.

			• The Solvency II balance sheet is calculated on a notional market consistent basis. Over time, economic taxable profits will be realised, which can be used to recover notional deferred taxes. These future profits are expected from earning an investment margin on invested assets over and above the discount rate included in the Solvency II balance sheet and funding costs. The IRSG does not consider that it would be appropriate to limit the expected return to the shocked risk free rates. • The loss absorbency of deferred taxes should be recognised not only when the undertaking can demonstrate credible future profits would be generated but also when the deferred tax assets will reverse in the future without negatively impacting future taxable income (e.g. due to credit spread risk shock). • When taking account of new business in the calculation of the LAC DT, a fundamental consideration is the extent to which the relevant business would be able to recoup the shock loss and hence be able to write new business. This requires consideration of the basis on which the business in question can take management actions to improve its capital position (including whether it can be recapitalised). As part of the ongoing management of the capital position, businesses already assess the impact of stresses	EIOPA shall not advise to generally limit LAC DT to the net DTL on the balance sheet of an undertaking.

			and the management actions that can be taken to restore the solvency position. • The IRSG considers that the time horizons used in calculating the LAC DT should be based on the time horizon appropriate to the underlying business in question. The IRSG does not consider that it would be appropriate to impose an arbitrary limit on the time horizon used. • Companies should also be allowed to use jurisdiction specific rules (for example tax credit in some jurisdictions can be used when two insurance companies go through a merger) in their calculations. • Finally, the IRSG does not agree that the LAC DT should be limited to the net DTL, not least because this is inconsistent with the going concern basis of Solvency II. Setting the LAC DT to the amount of the net DTL effectively assumes that no future returns on assets and liabilities would be earned, and no future new business would be written by the business in question (and by extension the whole of the European/EU industry).	
205.	Insurance Europe	8.1	Insurance Europe notes that the Commission has requested EIOPA to report on the various methods currently applied across Europe with regards to the loss	See 202 for EIOPA's approach to the Commission's request on LAC DT for the SCR review.

			absorbing capacity of deferred taxes (LAC DT) and on their impact. Insurance Europe therefore believes that, by submitting its analysis, EIOPA will have fully delivered on its mandate and no further action is necessary. Insurance Europe highlights that the economic approach underpinning Solvency II, reflected for example in article 207 of the Delegated Regulation, recognises the loss absorbency of deferred taxes, and the ability of future profits to support this. The Delegated Regulation already foresees a "credibility" proof for future profits, which supports the prudent nature of the framework. The EIOPA report represents a high level summary based on the detailed data gathered by EIOPA. Insurance Europe considers that it is inappropriate to extrapolate and draw any firm conclusions from this high level summary. In addition, the detailed mathematical analysis in the report would benefit from some general explanation of approach and the mathematical terminology used. Insurance Europe provides more detailed comments on individual sections of the EIOPA report below. Insurance Europe notes that the assumptions in the context of LAC DT need to be based on what would happen in reality. In the event of an actual shock, undertakings would implement management actions, including recapitalisation. These actions (including any	EIOPA has provided a data analysis of LAC DT and has provided possible explanations for differences in LAC DT; EIOPA has not drawn any conclusions from this data analysis. See 204 for a response to the comment regarding future management actions. Regarding the differences in tax regimes and their impact on LAC DT see 198 above on the level playing field.

			assumptions that sensibly flow from this, such as the writing of new business) should be taken into account as a core assumption within the calculation of LAC DT. Not to do so is to assume that the whole of the European insurance industry would go into run-off. Given the differing tax regimes which apply throughout Europe, these actions are necessarily different between territories. A "one size fits all" view on the calculation of LAC DT is not appropriate, and this is demonstrated by the weak correlations in the data analysis by EIOPA. Therefore, Insurance Europe's view is that standardisation of the calculation of LAC DT is not necessary, nor is any additional guidance required.	
206.	KPMG	8.1	We support the continued use of IAS 12 as a basis for recognising and valuing deferred tax assets and liabilites in SII. We consider there are adequate safeguards in IAS 12 to prevent inappropriate DTA valuations. IAS 12 (and the supporting Basis for Conclusions, last updated in January 2016) gives some guidance on recovering assets for more than their carrying value which may be relevant when forcasting future investment yields. We suggest that EIOPA should seek to rely on the work of the IASB in this respect.	See 204 for a response to the comment regarding IAS12 EIOPA has provided a data analysis of LAC DT and has provided possible explanations for differences in LAC DT; EIOPA has not drawn definite conclusions from this data analysis.

			Retaining the link to IAS 12 helps ensure quality and consistency as it builds on rules familiar to insurance undertakings, their tax departments and auditors. It also avoids the need for EIOPA to have their own detailed rules on tax. Departing from IAS 12 and applying a new simplified approach could mean that there is no guidance capable of dealing adequately with complex cases. EIOPA's role should be limited to providing guidance on how IAS 12 should be interpreted and applied in a SII context. EIOPA have found that 75 % of LACDT is supported by DTLs. We expect that this figure will change in future due to a number of factors including the implementation of IFRS 17; the run-off of DTLs relating to SII transitional provisions and greater focus on modelling of future profits.	
207.	AMICE	8.2	EIOPA is describing the LAC_{DT} as a « phenomenon ». We would urge EIOPA to rephrase this sentence as the LAC_{DT} is consistent with the fiscal legislation within a Member State which is hardly described as a « phenomenon ». 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.	EIOPA has used the term "phenomenon" as a neutral description of the concept of LAC DT. The probable utilization of economic profits indeed depends on the applicable tax regime. However, without economic profits no demonstration of the utilization of the net DTA would be possible; economic profits are key. Nevertheless, undertakings have to take account of the applicable tax regime if the probable economic profits are taxable and can

			This change in the LAC_{DT} can be caused by (1) temporary differences which will recycle back as long as the balance sheet exposure is maintained on the economic balance sheet, (2) the actual losses due to effect of the underlying scenarios (for example defaults or lapses) and (3) results which are mandatory recognised into the period in which they materialise. The various causes will require a different approach in the recoverability assessment based on the going concern assumption. Whether an insurer recognises all three causes depends on the actual fiscal legislation and the treatment of changes in valuation which differ per Member State.	be utilized.
208.	Dutch Association of Insurers	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.	See above 207.

209.	AMICE	8.2.2	Following the assessment of the LAC_{DT} and the current limit on Tier 3 items we believe that this restriction will have an important pro-cyclical impact. Because the underlying scenarios cause a change in valuation on the stressed economic balance sheet, the DTA will mostly increase. Given that the Tier 1 limit is impacted by the LAC_{DT} scenario and the increase of the DTA is restricted in the amount of eligible own funds, more available own funds would not result in more eligible own funds. In this sense, an insurer in breach of the SCR will be required to resort to more recovery measures as a big amount of the change in nDTA can be attributed to temporary valuation differences and this effect is indeed procyclical. As in the business model of insurers assets are matched with liabilities, the temporary part of the nDTA should not be included in the determination of the Tier 3 limit provided the insurer is able to demonstrate that no forced sales will be required. This would decrease the procyclical nature of the restriction in the context of the calculation of the LAC_{DT}.	EIOPA agrees that in some cases, due to the Tier 3 limits, increases in own funds might not result in more eligible own funds. The eligibility of Tier 3 and net DTA is not in scope of the SCR review.
210.	Dutch Association of Insurers	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	See above 209.

			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.	
211.	Deloitte Touche Tohmatsu	8.2.3	The reference to an undertaking being required to have credible evidence (para 461) is an example of how the "probable" test gets modified. It raises the question of what is meant by "credible" and may lead to a wider discussion on credibility. Focussing on Article 15.2, we see the Regulation ask whether evidence is sufficient to show it is probable a deferred tax asset will be utilised (which, for LAC DT, is in the post-shock environment). The evidence to support that assertion must have credibility – but that credibility only needs to be sufficient to overcome the "probable" threshold.	EIOPA agrees that the valuation of DTA for both the balance sheet and for the purpose of LAC DT need to meet the probable criterion in Article 15 of the Delegated Regulation. EIOPA disagrees that the expectation that an undertaking provides credible evidence that the criterion is being met is a modification of that criterion.
212.	AAE	8.2.4	It is not clear why a stand-alone comparison with the treatment of DTA in banking (stress tests) is relevant. Stress tests cannot be assessed purely on the methodology of computing the results, but also on the nature of the business, the size of the stresses and the criteria used in assessing the results. Indeed, these are jointly determined and are interrelated.	A comparison with the banking framework is not uncommon in general, as well as within EIOPA's SCR review.
213.	AMICE	8.2.4	When estimating the differences between the insurance and the banking stress tests, EIOPA should also assess the fact that insurers will have to estimate the economic balance sheet whereas banks will determine their statutory balance sheet mostly based on accounting	Of course, many differences exist between the banking and insurance regulation frameworks. Nevertheless, EIOPA finds a comparison of two stress test calculations and the role of taxes therein relevant in itself.

			framework. This results in a different sensitivity towards stresses and scenarios. For example, if an asset is measured at amortised cost the value of the asset is not directly sensible to changes in spreads. No change in nDTA is therefore expected which is the opposite to what happens when an asset is measured on an economic value. This difference has a profound impact on the perspective and need for recognition of nDTA.	
214.	Insurance Europe	8.2.4	Paragraph 462 & 463 Insurance Europe finds the comparison with deferred taxes in the banking stress tests beyond the scope of this consultation. The purpose of this comparison in the context of the consultation document is unclear. The banking regulations do not permit the creation of a new DTA, and are therefore on a different basis to the insurance regulations. Therefore, this section should be removed.	See both 212 and 213 above.
215.	AAE	8.3	Assessing the term instantaneous one would assume that the shock occurs at the reference date in order to account for incurring the loss in the own funds. The question then arises whether, for intra-year reference points, the already accumulated tax results are to be included in the recoverability assessment. Because the result for the year up to the reference point is already recognised after which the shock scenario is applied. Otherwise, the scenario exceeds the 1-200 requirement. In the guidelines of EIOPA, reference is made to fiscal unity (guideline 9). However, the statements made do not actually align with the concept of fiscal unity in the	For intra-year updates and/or calculations of the SCR already recognized fiscal profits in the year will have a loss-absorbing effect for the part of the shock loss that is also a direct fiscal loss; it is a sort of intra-year carry-back possibility. Note that the instantaneous shock loss occurs directly after the balance sheet date. If the fiscal year ends at 31 December, no intra-year carry-back for that year is possible, unless carry-back is applicable in that tax regime; in that situation no additional year of carry-back is possible.

			various Member States (esp. 1.28). For example if not, losses are transferred, but actually, profits are transferred ensuring the non-payment or reduced payment of taxes within a fiscal unity. A group is able to transfer profits to that entity within the fiscal unity that allows an optimisation of the tax payments. Due to the guidelines of EIOPA, the concept of fiscal unity is not recognised which is contrary to the fiscal legislation.	See 216 below on transferring profits within a group in response to the comment on fiscal unities.
216.	AMICE	8.3	Article 207 (1) of the Delegated Regulation refers to an instantaneous loss amounting to the sum of the BSCR, LAC_{TP} and Operational Risk. Additionally, Article 207 (5) of the Delegated Regulation requires an allocation towards the stressed economic balance sheet through the risk (basically the underlying scenarios). This implies that the underlying scenarios will have an impact on the Risk Margin (the underlying scenarios of the Underwriting Risk sub-module and the change in the value of the Best Estimate), the Risk-Free Interest Rate (underlying scenario of the Interest Rate Risk sub-module), the Volatility Adjustment (underlying scenario of the Spread Risk sub-module), etc. This is in contradiction with Article 207 (1). Furthermore, when assessing the term « instantaneous » one would assume that the shock occurs at the reference date in order to account for incurring the loss in the own funds. The question that arises is whether the already accumulated tax results are to be included in the recoverability assessment because the year-end result up to the reference point is already recognised after which the shock scenario is applied. Otherwise, the scenario would exceed the 1 in 200.	Article 207(5) only allocates the shock loss prescribed in Article 207(1) to a specific scenario that would have resulted in such a shock loss. The prescribed shock loss in Article 207(1) does not affect the Risk Margin and the Volatility Adjustment. The instantaneous shock loss occurs immediately after the reference date. Only when carry-back is applicable in the tax regime the part of the shock loss that is also a fiscal loss can be offset against profits in the previous year. See also 215 above. Transferring profits from other entities within a fiscal unity would make the LAC DT calculation more complex as the undertaking would have to take account of the impact of the scenario underlying the shock loss on these other entities within the fiscal unity. Where the simplifications within the Standard Formula are considered materially inappropriate for an undertaking, there is an option to use an Internal Model

			In the EIOPA Guidelines reference is made towards Fiscal Unity (Guideline 9). However, the statements in EIOPA guidelines are not in line with the concept of fiscal unity existing in the various Member States. Under the fiscal unity approach, a group is able to transfer profits (but no losses) to that entity within the fiscal unity in order to optimise the tax payments (to ensure the non-payment or reduced payment of taxes within the fiscal unity). However, EIOPA Guidelines on the Loss Absorbing Capacity of Deferred Taxes do not recognise the concept of fiscal unity which is contrary to the existing fiscal legislation.	
217.	Deloitte Touche Tohmatsu	8.3	There is no reference to Annex XVIII of the Delegated Regulation or Guideline 22 of the Guidelines on Loss-absorbing Capacity of Technical Provisions and Deferred Taxes (EIOPA-BoS-14/177), which may explain the lack of commentary in the Consultation Paper on LAC DT within group SCR. It would be useful for EIOPA to develop guidance on the relevance, or otherwise, of IAS 12 to the interpretation of the Solvency II rules (para 471). Solvency II has its own code (Article 15), as acknowledged at 2.4.b in the Feedback Statement of the Final Report on the EIOPA Guidelines on the Recognition and Valuation of Assets and Liabilities Other Than Technical Provisions (EIOPA-BoS-15/113). A number of EIOPA Guidelines diverge from IAS 12 (Guidelines 9, 13 and 22 of EIOPA-BoS-14/177). Although it is usually assumed that IAS 12 offers guidance for matters not covered in EIOPA or NSA guidance, the lack of EIOPA guidance makes it difficult in practice as to how far to take this, and different approaches have developed. It would be useful to have EIOPA's views.	Undertakings value deferred taxes on a market consistent basis as referred to in Article 15(1) of the Delegated Regulation by a reference to the general Article (9); the Solvency II valuation is based on generally accepted accounting principles, like IAS12, to the extent they comply with the market consistent valuation principle of Solvency II.

218.	Dutch Association of Insurers	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	See 216 above.

			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.	
219.	AAE	8.4	Considering the large number of undertakings across the countries, it might be an approach to start with an analysis of correlations. It cannot be assumed to be sufficient if these correlations are derived from one the Day One templates only. At least a validation using the annual QRT 2016 is indispensable. Besides this, an identified correlation is not necessarily an indicator for causality. A careful analysis of the data is necessary. According to paragraph 478 EIOPA hypothesises that five factors may influence the amount of LAC DT; the applicable tax rate, other elements of the tax regime, the net DTL on the balance sheet, the size of the undertaking and the solvency ratio. Other elements of the tax regime are the carry-back and carry-forward possibilities. There may be even more elements of the tax regimes that imply differences in LAC DT across the EEA, but these are left out of this analysis as data on these other characteristics are not readily available.	EIOPA will provide an update of the data analysis with the 2016 QRT numbers. EIOPA has presented correlations and possible explanations of causes of these relationships. Nowhere EIOPA concludes that these relationships would actual exist. EIOPA has stated that other elements may also influence differences in LAC DT. The omitted variable bias could imply that a significant effect found, is not significant for that particular element but has rather become significant because of its relationship with the omitted element. The LAC DT percentage for Luxembourg exceeds the tax due to an incorrect applicable tax rate. This has been corrected in the final advice.

			EIOPA acknowledges that differences in LAC DT can be implied by more elements. As these elements are not readily available, they are left out. This affects significantly the quality of the analysis. Especially lines of business offered by the undertaking, the requirement of policyholder participation, and the existence of surplus funds and similar can be of relevance in this context. One interesting remark is that the LAC DT % exceeds the Tax Rate % for Luxembourg. What is the rationale behind this?	
220.	AMICE	8.4	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 would also have an impact on the different outcomes. This should be included in the assessment as the volatility should also be considered when developing more guidance.	EIOPA will provide an update of the data analysis with the 2016 QRT numbers.
221.	Dutch Association of Insurers	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	Notional deferred taxes have been used in the Guidelines on LAC TP and LAC DT, but are not equal to net DTL on the Solvency II balance sheet. EIOPA prefers to present the positive correlation between net DTL on the Solvency II balance sheet and LAC DT. See 220 above.

			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.	
222.	Insurance Europe	8.4	Paragraph 478 to 480 Insurance Europe welcomes the analysis of LAC DT across the EEA but notes that a number of supervisors have provided guidance since the analysis was made which may impact the analysis and results.	EIOPA will provide an update of the data analysis with the 2016 QRT numbers.
223.	AAE	8.4.1	When assessing the tax regimes an overview how results are recognised under fiscal legislation would also provide a valuable insight in the development of the nDTA on the economic balance sheets.	EIOPA agrees that other elements of the fiscal regulation and valuation influence LAC DT. However, the tax rate, carry-back and carry-forward are main elements for the calculation of LAC DT. For LAC DT calculations and this SCR review the tax regimes are treated as given.
224.	AMICE	8.4.1	When assessing the tax regimes an overview as to how results are recognised under fiscal legislation would also provide a valuable insight in the development of the nDTA on the economic balance sheets.	See above 223.
225.	Dutch Association of Insurers	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.	See above 223.
226.	AAE	8.4.3	The heading of Figure 10 suggests that it captures net DTL / LAC DT in Table 8. However, there are no negative numbers for net DTL / LAC DT in Table 8. What	Negative net DTL in Figure 10 equal the positive net DTA in Table 8.

			is the reason? Why is Figure 10 presented at the country level and Figures in 8.4.4 / 8.4.5 at the entity level? The correlations mentioned in 490 refer to entity level. A figure on the entity level might be interesting.	EIOPA has changed Figure 10 to a figure at the entity level.
227.	Insurance Europe	8.4.3	Paragraph 488 Insurance Europe believes that EIOPA's conclusion is not fully accurate, in particular it is not fully correct to say that: "the larger the netDTL on the balance sheet of an undertaking, the less it is likely to rely on the projections or future profits for the demonstration of likely utilisation". This conclusion does not take into account particular factors from local tax regimes, for example, where a component of the balance sheet DTL does not have any corresponding offset from the stress loss.	The statement in paragraph 488 generally holds. Moreover, the positive correlation between net DTL and LAC DT indicate a possible relationship in the data reported per 1 January 2016.
228.	AAE	8.4.4	Regarding 492, the correlations contradict the hypothesis. The 'possible explanation' makes intuitively sense, but we do not see how it relates to the contradiction. Regarding 493, Figure 11 is presumably a typo. Shouldn't this be Figure 12?	EIOPA hypothesizes that undertakings with higher capital ratios will have more own funds after the shock loss to generate future profits. The correlation of 0.1% does not indicate that this is actually the case.
229.	Assuralia	8.4.4	Solvency ratio and LAC DT: paragraphs 492 and 502	EIOPA states possible explanations based on the data analysis of the data per 1 January 2016 and 31 December in the final advice, but

			In paragraph 492 of the consultation paper, it is stated that "relatively low capitalised undertakings try harder to demonstrate likely utilisation of their LAC DT in order to get a lower SCR and as a consequence a higher SCR ratio." This message is reiterated in paragraph 502 of the consultation paper. These strong statements seem exaggerated. Indeed, correlation coefficients of minus 9.7% and 0.1% are too small to allow EIOPA to conclude a linear relationship between solvency ratio and LAC DT. Similarly, the regression coefficients of -0.9% and -0.6% reported in table 11 may be statistically significant, but are not large enough to be considered economically relevant.	does not conclude that these possible explanations are the actual causes of differences in LAC DT. The difference in the correlations indicated that undertakings with lower SCR have more often a LAC DT larger than zero per 1 January 2016. EIOPA just provided a possible explanation for this finding. EIOPA has explained the economic significance of the coefficients in the text; whether this is sufficiently large is up to the reader.
230.	Insurance Europe	8.4.4	Paragraph 492 Insurance Europe notes that the correlation coefficient of 0.1% is too small to allow EIOPA to conclude a linear relationships between solvency ratio and LAC DT. Paragraph 494 & 495 In Insurance Europe's view, the correlation coefficients are too low to draw any other conclusion than the absence of linear relationship between LAC DT and the solvency ratio.	See 229 above.
231.	AAE	8.4.5	We read section 8.4.5 and the size coefficient in 8.4.6 as indicating that smaller companies need more time (have more difficulties) coming to terms with LAC DT. 496: Typo ….to influence of the amount….	Smaller companies having more difficulties may be another, possible explanation of the positive correlation between size and LAC DT. Typo corrected.

232.	Insurance Europe	8.4.5	Paragraph 496 Regarding the relationship between the size of the undertaking and the LAC DT, Insurance Europe does not share the assumption that the larger the company the more resources it can make available for the calculation of LAC DT. In addition, Insurance Europe believes that the positive correlation coefficient of 2.6% is too low to draw any definitive conclusion on the relationship between the size of the balance sheet and the amount of LAC DT.	That larger companies would have more resources to demonstrate probable future profits is just a possible explanation. The correlation of 14.9%, as well as its difference, with 2.6% if zero LAC DT has been excluded from the analysis indicated that larger companies have relatively more often a LAC DT larger than zero per 1 January 2016, all else equal.
233.	AAE	8.4.6	Regarding 507, rather than do a more detailed study on these data, it may be more useful to include data for a year later, and analyse changes.	EIOPA will provide an update of the data analysis with the 2016 QRT numbers.
234.	Insurance Europe	8.4.6	Paragraph 501 & 502 The regression coefficients of 0.4% for the size of the undertaking and -0.9% for the solvency ratio confirm Insurance Europe's comments made for paragraphs 492, 494, 495 and 496. The regression coefficients reported in table 11 may be statistically significant, but are not large enough to be considered economically relevant.	EIOPA has explained the economic significance of the coefficients in the text; whether this is sufficiently large is up to the reader.
235.	Assuralia	8.5.1	Timing of net DTL: paragraph 510	The first set of advice regarding LAC DT only describes the differences in supervisory

			In paragraph 510 of the consultation paper, the following is stated: "Some NSAs require undertakings to provide evidence that the timing of the net DTL after the shock loss is such that they are available on the right time to utilise the DTA…" Demonstrating the timing of the reversal of net DTL is not proportionate. Instead, it should be assumed that insurance undertakings are able to control the reversal of net DTL on the Solvency II balance sheet. As an example, assume that that an unstressed solvency II balance sheet displays a large amount of net DTL due to declining credit spreads on fixed income assets. Assume that the BSCR of the insurance undertaking is mainly composed of equity shocks. The management of the insurance undertaking has a full discretion on the purchase or sale of assets – this consideration being relevant for jurisdictions that tax on a realised basis. Hence, the management can make sure that the fiscal losses, stemming from the sale of equities at a loss, occur simultaneously with the interest income or gains from the sale of fixed income assets. As such, tax losses resulting from the equity shock do not cause a tax loss carry forward, because the insurance undertaking can steer its asset management such that taxable temporary differences correspond to the tax losses resulting from the equity shock. If the assumption, that insurance undertakings are able to control the reversal of net DTL, was disregarded, undertakings would be required to explicitly	approaches without drawing any conclusions from these differences other than that EIOPA will strive for harmonization. Some NSAs require to demonstrate the probable utilization of DTA with the timing of DTL. Tax planning can be a way to adjust the timing of DTL, to the extent allowed by the fiscal regime.

			demonstrate that the timing of the net DTL corresponds to the utilization of DTA post shock. This would imply that undertakings are required to report hypothetical scenarios in which they will demonstrate that, through the sale or maturity of assets (or the run-off or sale of insurance portfolios), tax losses occur simultaneously with tax profits. Such reportings will be of very little or no added value, because in reality, the management of the insurance undertaking will always be able to steer the occurrence of tax losses and profits through targeted sales or purchases of assets and liabilities.	
236.	Dutch Association of Insurers	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.	DTL in investment subsidiaries are available to the undertaking, but whether they are available for tax planning purposes of the undertaking is a question of whether the undertaking controls the investment subsidiary.
237.	Insurance Europe	8.5.1	Paragraph 510 Insurance Europe believes that the demonstration of the timing of the reversal of net DTL is disproportionate and instead it should be assumed that undertakings are able to control the reversal of net DTL on the Solvency II balance sheet. Further detail can be found on page 7 of the CRO Forum paper (available here: http://www.thecroforum.org/dta-in-scr/).	See 235 above.

238.	AAE	8.5.2	Regarding 513, we agree that information about the role of carry-back would be helpful for comparative purposes.	The QRT do not provide EIOPA with this information
239.	Insurance Europe	8.5.2	Paragraph 512 Insurance Europe notes that volatility in this context is normal, and does not imply any incorrect treatment. Paragraph 514 The use of the word "incentivised" seems too strong in this context. Undertakings may be "more inclined" to seek reliance on future profits in jurisdictions where carry back is not allowed.	EIOPA has neutrally described the volatility in LAC DT stemming from carry-back due to the volatility in profits and losses. EIOPA will adjust this sentence in paragraph 514 as suggested.
240.	KPMG	8.5.2	Carry back of tax losses – it may remove confusion if the SII Regulations or Guidance made clear that the instantaneous shock loss takes place immediately after the balance sheet date (as opposed to on the balance sheet date).	The instantaneous shock loss occurs immediately after the reference date. Only when carry-back is applicable in the tax regime the part of the shock loss that is also a fiscal loss can be offset against profits in the previous year. See also 215 above.
241.	AAE	8.5.3	Regarding non-life business, future profit is only allowed for the part included in premium reserve calculation. There is no DTL in the balance sheet for 1-year non-life insurance.	EIOPA considers that any undertaking might conceivably hold DTL on the balance sheet.
242.	Deloitte Touche Tohmatsu	8.5.3	The text here, and in subsections to 8.5.3, implies divergence from the Article 15 "probable" test. Artificial and sometimes irrebuttable assumptions have been	EIOPA deems the general statements correct. Of course, undertaking and tax regime specific circumstances need to be taken into account.

			made. In our view, whether a firm has sufficient evidence to overcome the "probable" threshold is a firm-specific test. General statements can be, and have been, made. For example, the longer the planning horizon, the less certain it is likely to be that the projected profits will be made. But it will always be a firm-specific question as to whether there is sufficient evidence to support the proposition that it is probable that those future profits will arise.	
243.	Insurance Europe	8.5.3	Paragraph 517 The Solvency II Directive and Article 207 of the Delegated Regulation permit the recognition of deferred tax assets through the demonstration of future profits. As a legitimate part of the Solvency II framework, Insurance Europe believes that recognition of deferred tax assets through the demonstration of future profits represents the correct application of the legal text and, therefore, should be available in all jurisdictions and must not be undermined by artifically reducing the projection period.	The projection period used should be compliant with the probable criterion in Article 15 of the Delegated Regulation.
244.	KPMG	8.5.3	We consider that it may only be necessary to demonstrate future compliance with the MCR/SCR if future new business is to be used to support LACDT. A poorly capitalised company closed to new business and in run off can remain a going concern and have taxable profits.	EIOPA has just described the current supervisory practices.
245.	Insurance Europe	8.5.3.1	**Paragraph 519, 520 & 521** With respect to the remarks made on supervisory practices,	EIOPA has just described the current supervisory practices.

			Insurance Europe notes that:
			• A second order impact on LAC DT in respect of subsequent MCR / SCR requirements after a shock loss is not appropriate. In fact, second order calculations are not a requirement of the standard formula under Solvency II.
			• Compliance with the MCR and SCR should not play a role in the calculation of LAC DT as these are a given for a going concern.
			• Linking SCR and MCR to the recognition of future taxable income in a post shock scenario would introduce in the computation algorithms of the SCR undesirable elements of recursion and procyclicality. Specifically:
			  ○ The SCR post shock would in turn be linked to the LAC DT which is determined assuming that the loss defined in art 207 of the Delegated Regulation would exist for two consecutive periods (ie recursion).
			  ○ There could be situations where unfavorable economic conditions reduce the excess of capital sufficiently to equal the BSCR net of the losses deriving from the TP. This would further result in an increase of the SCR in a post-shock scenario because of the reduction in the LAC DT component.
			
			Paragraph 524
			Insurance Europe agrees with the view of some NSAs that compliance with MCR/SCR post-shock can be restored via	

			recapitalisations. In principle, the requirement to meet SCR and MCR in an after-stress situation, under the same pre-stress conditions and requirements, is not in line with the EIOPA guidelines on LAC DT. That said, article 101 of the Solvency II Directive lays down that the calculation of the SCR shall be performed under a going concern assumption. In addition, existing regulations require the largest undertakings to submit a recovery plan to demonstrate actions that would be taken were a shock to occur. As such, Insurance Europe strongly agrees that management actions including recapitalisation and ancillary own funds should be recognised. **Paragraph 526 & 527** See the response provided to paragraph 524.	
246.	AAE	8.5.3.2	New business is identified as a possible source to demonstrate the likelihood of future profits post a shock event, which seems appropriate. However, paragraph 534 suggests that premiums received beyond the contract boundary (as defined for technical provisions) would not be eligible for recognition in the LACDT calculation. This seems inconsistent - premiums received outside contract boundary should be considered as well as new business. In many instances, the contract boundary is immediate based on the SII rules but premiums would be expected to be received beyond the boundary (based on experience analyses) and in many cases this is more certain than new business. In addition, it should be noted that in IAS 12 new business is allowed which might have a link to this also.	Paragraph 534 just describes an argument. That argument is not to allow any new business, including renewals, at all because on the Solvency II balance sheet also no credit is given for possible profits and losses from new business beyond the contract boundaries.

247.	AMICE	8.5.3.2	When assessing the horizon, the projection horizon for businesses should at least be similar to the carry forward term allowed by the fiscal legislation. Otherwise 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 the use of lapse assumptions within ALM studies and other publicly available information (changing behaviour of policyholders/consumers). Restricting the horizon is not consistent with the going concern principles defined in the Solvency II Directive 2009/138/EC. Moreover, the valuation practices such as merger & acquisitions or impairment testing (IFRS) use longer time horizons (10 years or longer).	Key for the demonstration of probable future profits for the utilization of net DTA are economic profits. EIOPA assumes that the fiscal regime then translates these taxable economic profits to fiscal profits at some point in time. EIOPA considers that there is increased uncertainty as to the level of economically profitable new business which will be written in future years. EIOPA does not deem it justified to allow for different horizons for economic profits because of differences in the tax regime.
248.	Dutch Association of Insurers	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.	See 247 above on the demonstration of probable future profits and the increase in uncertainty in new business EIOPA welcomes sensitivity analyses by undertakings to demonstrate the impact of assumptions on the LAC DT outcome. The length of the horizon is a matter of how probable economic profits are. EIOPA considers that it is possible for a company to be a going concern and also write new business that is economically neutral.

			Within valuation practices (merger & acquisitions) or impairment testing (IFRS) also longer time horizons are used.	
249.	KPMG	8.5.3.2	paragraph 534 : We consider it consistent with the economic principles of the SII balance sheet that DTAs are valued. IAS 12 offers the best available framework for arriving at a reasonable approximation of an economic value for DTAs. This economic view implies that DTAs can be supported by reference to future new business (provided that the profits can be evidenced to the standard required by IAS 12). We do not consider this to be inconsistent with the valuation principles of SII (similarly, no one argues that IFRS DTAs are inconsistent with the valulation basis applying to the rest of the IFRS balance sheet). paragraph 535 et sqq.: We agree that it is appropriate to distinguish between the time horizon over which new business is forecast and the time horizon over which profits emerge. We consider averaging or haircuts may be a practical and pragmatic way to simplify the calculation in many cases (but this should be subject to a derogation so that different approaches could be applied where appropriate). We want to put emphasis on the fact that IAS 12 principally allows for longer horizons for projecting	Undertakings value deferred taxes on a market consistent basis as referred to in Article 15(1) of the Delegated Regulation by a reference to the general Article (9); the Solvency II valuation is based on generally accepted accounting principles, like IAS12, to the extent they comply with the market consistent valuation principles of Solvency II. If specific assumptions are used for the valuation of a balance sheet item, these same assumptions should be used for the valuation of the associated DTA. In its second set of advice EIOPA will consider simplifications and restrictions. See 248 above for a response to the comment regarding the length of the horizon.

			future profits to text recoverability ; this is especially true for jurisdictions in which there is no time limit for using loss carry forwards.	
250.	AAE	8.5.3.3	Ad i. To handle uncertainty about future returns, the concept of the Risk Margin can perhaps be expanded. It could include a cost of capital for the uncertainty of future returns. Alternatively, the concept of LAC DT can be expanded with a Risk Margin like term. Ad ii. The concept of 'pull-to-par' seems analogous to 'dynamic VA'. If an internal model has been approved with such characteristics, pull-to-par is a given. Ad iv. It seems like an UFR drag and a VA drag are inconsistent with current EIOPA valuations. Ad vi. The release of the Risk Margin (a risk premium on the liability side) seems to be treated differently from risk premiums on the asset side. There is no double counting of the risk margin. The risk margin is initially taken out of equity / included in technical liabilities.	EIOPA considers that the construction of LAC DT needs to be simplified, rather than further complexity added. A dynamic VA would already have been reflected in the shock loss according to Article 207(1). Taking account of pull-to-par would be a sort of double counting. In projections of the Solvency II solvency position the UFR and VA drag do decrease own funds. The UFR and VA drag do not affect today's Solvency II valuations, but does affect future projections of Solvency II own funds. Regarding the risk margin, that is not affected by the bSCR* shock prescribed in Article 207(1), double counting should be avoided.
251.	AMICE	8.5.3.3	We disagree with the statement that pull-to-par is not consistent with Article 207 (1) of the Delegated Regulation. This article refers to the instantaneous loss incurred whereas the recoverability analysis refers to future periods and behaviour of spreads or other elements. In assessing the pull-to-par effects, the	This is just a statement by an NSA reflected in the stocktake of different supervisory approaches to LAC DT. Assuming pull-to-par is considered a subset of the set of cases where an undertaking isassuming returns above the risk-free interest

			insurer should assess whether the asset is still maintained on the balance sheet for this pull-to-par to materialise.	rates.
252.	Assuralia	8.5.3.3	Pull-to-par: paragraph 551 In paragraph 551 of the consultation paper, the following is stated: "Allowing pull-to-par implies that the part of the losses due the credit spread shock does not materialise to the full extent. It would be inconsistent with the credit spread shocks themselves in the calculation of the basic SCR that also do not take account of any pull-to-par." A distinction should be made between the shocks of the BSCR on the one hand and the assumptions used to demonstrate future profitability and the increase in DTA on the other hand. A pull-to-par does not mean that spread shocks do not exist. The assumption of a pull to par could never neutralise the entire spread shock, as the loss-absorbing effect is inevitably capped by the tax rate. Assuming a pull-to-par only means that the spread shock will lead to limited fiscal losses in jurisdictions that tax on a realised basis. The amount of the BSCR is legally fixed by article 207(1) of the Delegated Acts and is not affected by a pull-to-par assumption. Undertakings that use a pull-to-par assumption still recognise that spread shocks affect asset valuations on the Solvency II balance sheet. The essence of a pull-to-par assumption is that these spread shocks, over time, will not lead to fiscal losses. There is indeed ample evidence that spreads are more volatile compared to the	See 251 above.

			actual default experience. It is therefore sound to assume that spread shocks will not fully materialise into fiscal losses.	
253.	Deloitte Touche Tohmatsu	8.5.3.3	With regard to the pull to par example, we note that the IASB issued Recognition of Deferred Tax Assets for Unrealised Losses (Amendments to IAS 12) in January 2016, which covers similar ground – and again note that EIOPA guidance on the relevance or otherwise of IAS 12 would be helpful. We agree NSAs should require the evidence firms use to support the "probable" assertion to be consistent with the data and approaches they use elsewhere. But stress that consistency does not mean taking the same view of different things : for example, it is not inconsistent to argue that it is probable loan assets held to maturity will be recovered at a value different from that on the stressed Solvency II balance sheet. That is because the accounting requirements for loan assets on the stressed balance sheet do not say they should be valued at the amount that is expected to be recovered. However, a firm must still show that it is probable that a loan asset will be held to maturity. A proper application of the "probable" test should leave it open to firms to show they have evidence to demonstrate that it is probable assets and liabilities in the post-shock scenario will be recovered at some value other than carrying value.	IAS 12, including its amendments. are relevant for the demonstration of probable future profits for the utilization of DTA after the shock loss. Regarding pull-to-par please see 251 above. The probable criterion plays a key role in the recognition of deferred taxes according to Article 15(3). The valuation of deferred taxes should be consistent with the Solvency II valuation principles according to Article 15(1)'s reference to the general valuation Article 9.
254.	Dutch Association of	8.5.3.3	The argument mentioned that pull-to-par is not	See 251 above.

	Insurers		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.	
255.	Insurance Europe	8.5.3.3	Paragraph 549 to 551 Insurance Europe supports the use of the pull-to-par justification as a means of demonstration of the likely utilisation of net DTA. Insurance Europe notes that a distinction should be made between the shocks of the BSCR on the one hand, and the assumptions used to demonstrate future profitability and the increase in DTA on the other hand. A pull-to-par does not mean that spread shocks do not exist. The assumption of a pull-to-par could never neutralise the entire spread shock, as the loss-absorbing effect is inevitably capped by the tax rate. Assuming a pull-to-par only means that the spread shock will lead to limited fiscal losses in jurisdictions that tax on a realised basis. The amount of the BSCR is legally fixed by Article 207(1) of the Delegated Regulation and is not affected by a pull-to-par assumption. Undertakings that use a pull-to-par assumption still recognise that spread shocks affect asset valuations on	See 251 above.

			the Solvency II balance sheet. The essence of a pull-to-par assumption is that these spread shocks, over time, will not lead to fiscal losses. There is indeed ample evidence that spreads are more volatile compared to the actual default experience. It is, therefore, sound to assume that spread shocks will not fully materialise into fiscal losses.	
256.	KPMG	8.5.3.3	paragraph 547: We do not agree with the argument that future assets returns should not be taken into account as future profits. Consider a simple case where a risk free asset of euro 1000 representing excess capital was held and the yield was 1 %. There would be taxable income of 10 per year. This income can support a DTA and there is no inconsistency with the SII balance sheet or valuation basis. We believe that the yield applied to assets when forecasting future profits should be consistent with the post-stress scenario (so, for example, the risk free rate may be higher or lower than pre-stress). The explanatory notes to the EIOPA Guidelines on tax state that it should be assumed that an asset cannot be recovered for more than its carrying value. This is inconsistent with IAS 12 and reality. For example, consider a Government bond with coupon rate of 1 % and say the market risk free interest rate was 1.5 %. The market value of that bond would be below its par value. But it would be clear that the bond could be sold or redeemed, in future, at more than its current fair value. In some jurisdictions, these future increases in fair vlaue would be taxable profit. Thus the post-stress	We agree that the risk-free return on excess capital could be a source of future profits. NSAs distinguish between risk-free rate returns and returns above the risk-free interest rates (as well as new business including new business beyond the contract boundaries). Assuming returns above the risk-free return comes at the cost of increased risk and uncertainty which should be reflected in the LAC DT calculations. In many jurisdictions the risk margin gives rise to a DTA as the risk margin is not considered for the fiscal valuation – we agree that this may change after adoption of IFRS 17. Undertakings thus could realize a fiscal, but no economic, profit when selling new business. This results in a possible DTA if profits are available for its utilization. Under the assumption of a best-estimate scenario the risk-margin will be earned and these profits are available for the utilization of the possible DTA. In a risk-neutral market consistent scenario, an undertaking should not

			yield currve, not the coupon rate should be used when forecasting taxlabe proftis. We suggest the Guidiedlines are modified to bring them into line with IAS 12. paragraph 556: We wish to clarify the meaning of the statement that none of the NSAs consider the risk margin as a source of future profit. We understand that the paragraph is referring to forecast future releases of risk margin and that some NSA's accept that such releases can be used to support the DTA on the risk margin itself. Furthermore, if such releases are used for that purpose they cannot be used to support any other DTA. We note that the new IFRS 17 includes a risk adjustment which has some similarites to the SII risk margin. In jurisdictions where taxable profits are based on IFRS profits, part of the SII risk margin will case to be a temporary difference. paragraph 558 : We do not agree with the argument that the risk margin is a permanent difference and does not give rise to DTAs. This is because IAS 12 requires an assumption to be made that all assets and liabilities are settled at their balance sheet value (IAS 12 paragraph 10). Thus, there is a temporary difference and hence potentially a DTA.	expect to earn the risk-margin and profits from other sources should demonstrate the probable utilization of the DTA.
257.	AAE	8.6.1	When judging whether compliance with MCR / SCR	NSAs have experienced assumptions regarding

			should affect the calculation some simple measures should be allowed to mimic the way companies' recovery systems work on possible Allowance of capital inflows, risk mitigation framework, management action plans and capital tiering rules.	recapitalisation and other management actions as subjective and complex.
258.	Deloitte Touche Tohmatsu	8.6.1	The point made in para 562 that allowing for recapitalisation or other management actions would make the calculation more complex and subjective is another example of guidance that could detract from the "probable" test. If, for a firm, the calculation is so complex and subjective that the "probable" test cannot be met, then deferred tax assets cannot be valued. On the other hand, if the complexity and subjectivity is not such as to cause that test to be failed, then deferred tax assets can be valued.	NSAs have experienced assumptions regarding recapitalisation and other management actions as subjective and complex. We consider that where there is sufficient doubt as to whether the "probable" test has been met, the test should not be considered to have been passed. We disagree with the statement that this situation would detract from the test itself.
259.	Insurance Europe	8.6.1	Paragraph 561 & 562 Please refer to comments above on paragraphs 519-521.	See 245 above.
260.	AMICE	8.6.2	When assessing the horizon, the projection horizon for businesses should at least be similar to the carry forward term allowed by the fiscal legislation. Otherwise 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 the use of lapse assumptions within ALM studies and other publically available information (changing behaviour of policyholders/consumers). Restricting the horizon is not consistent with the going concern principles defined in	See 247 above.

			the Solvency II Directive 2009/138/EC. Moreover, the valuation practices such as merger & acquisitions or impairement testing (IFRS) use longer time horizons (10 years or longer).	
261.	Dutch Association of Insurers	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.	See 247 above.
262.	Insurance Europe	8.6.2	**Paragraph 564** Insurance Europe strongly opposes the lack of recognition of new business in the assessment of future profits. In fact, if such a flawed approach was extended to the entire sector, it would be equivalent to assuming that the whole insurance industry would go into run-off and be unable to write any new business following a shock. There is no historical evidence to support	See 247 and 248 for a response to the comments regarding the length of the horizons of the projections. Undertakings value deferred taxes on a market consistent basis as referred to in Article 15(1) of the Delegated Regulation by a reference to the general Article (9); the

			this. Moreover, in a going concern view, new business is always generated and any assumption of no new business would be completely unrealistic and would distort the results. **Paragraph 565 &566** Insurance Europe believes that all elements that reflect the economic reality after the shock should be considered for the projection of the new business. Insurance Europe supports the following elements, listed in the CRO Forum paper (available here: http://www.thecroforum.org/dta-in-scr/): • Going concern assumption, strategic plan estimates, projection horizon, shock per risk source and recovery patterns. • The management of new business planning should be allowed to prove that the DTA is appropriate.	Solvency II valuation is based on generally accepted accounting principles, like IAS12, to the extent they comply with the market consistent valuation principle of Solvency II. Assumptions that fit these valuation principles are applicable for the LAC DT calculations.
263.	Insurance Europe	8.6.3	Paragraph 570 Insurance Europe highlights that the issue of uncertainty increasing with time horizon is already reflected in the best estimate calculation, so there is not need to consider it separately in the LAC DT.	EIOPA finds it important that a reduction in the SCR by a possible loss-absorbing mechanism like taxes is justified. Uncertainty should be taken into account when assessing the probable criterion in Article 15(3) of the Delegated Regulation.
264.	AMICE	9.1	Impact Assessment	
265.	Investment and Life Assurance Group (ILAG)	9.4.2	The impact analysis for paragraphs 605 and 606 does not acknowledge a key benefit of allowing non-listed simplified calculations, in that they relieve a potential cost burden on the industry arising from performing calculations that are more complex than is necessary given the materiality of the risk.	Disagreed. Even for non-listed simplifications an assessment of the error they introduce would be required.

			Further the higher risk to policyholders set out in 606 would not materialise if simplifications err towards the cautious side. Also an assessment by supervisors as outlined in the third bullet, would mean that if anything the non-listed simplification would be more appropriate rather than less appropriate.	
266.	Investment and Life Assurance Group (ILAG)	9.5.1	While we appreciate that assessments made by external credit ratings agencies are not to be considered perfect, we feel that the EIOPA statement that this option 'would entail severe pro-cyclical risk as well as risk of moral hazard, reducing policyholder protection' indicates that EIOPA feels that the rules governing such approved credit ratings agencies should be reviewed, rather than the rules for those relying on them (which includes the wider financial system). However, we welcome EIOPA's preference for simplification and not to introduce detailed internal rating requirements. We agree with EIOPA's statement that this activity is not a key area of expertise for the industry.	All four options considered in 9.5 are aimed to reduce reliance on external credit agencies. The referred statement regards one of the analysed options (use of market implied ratios) and not to the use of external credit ratings.
267.	AMICE	9.6	EIOPA's Impact Assessment should have included an assessment as to whether ☐ Partial Guarantees should be recognised in the market risk module ☐ A definition of Public Sector Entity could be provided	See resolution to comment 84 with respect to partial guarantees in the market risk module and resolution to comment 88 with respect to the definition of public sector entity.

268.	European Public Real Estate Association	9.8	Policy issue number 1 While looking at option 1.1 – we would like to reiterate that all collective investment undertakings (including where an insurance company holds a participation, as long as they are still collective) should be viewed as eligible for the application of the look-through. Therefore, it seems to be important to firstly define that the look-through approach applies to those collective investment undertakings where an insurance company holds a participation together with a number of other investors; and thus collectively invest in the underlying assets. This would also be the case of listed REITs, e.g. Cofinimmo in Belgium (5.08% participation of Crédit Agricole Group as at 2017 – for source click here at p. 12) Secondly, we would propose that a new category of the insurance investment undertakings (e.g. by adding a 84(2)(d)) is proposed for the Solvency II Delegated Regulation and the look-through approach. The Option 1.1. should then be slightly rephrased (looking at the same goal) to the following: extension to	See resolution to comment 137

			all insurance investment undertakings (=subsidiaries)	