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REPORT ON THE USE OF LIMITATIONS AND EXEMPTIONS FROM REPORTING DURING 2017 AND Q1 2018

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EXECUTIVE SUMMARY

The limitations and exemptions on reporting foreseen in Article 35 of the Solvency II Directive are a concrete proportionality measure but not the only proportionality measure in reporting requirements. Reporting requirements also reflect a natural embedded proportionality and in addition risk-based thresholds were included in the reporting Implementing Technical Standard (ITS).

Compared to 2017, three more National Competent Authorities (NCAs), in total 13, granted limitations to 791 solo undertakings for the first quarterly reporting in 2018 (compared with 10 NCAs and 703 solo undertakings in the first quarter 2017). Five NCAs (four in 2016) granted exemptions from reporting item-by-item templates to 133 solo undertakings for the annual reporting of 2017 (134 in 2016).

Three NCAs (four in quarterly 2017) granted exemptions from quarterly reporting to 33 groups in Q1 2018 (21 in the first quarter 2017). Three NCAs (three in 2016) granted exemptions from annual reporting to seven groups in 2017 (8 groups also in 2016).

The market share of the undertakings, which are allowed a limited quarterly reporting, varies between 0% and 14.6% for non-life Gross Written Premiums (GWP) and between 0% and 4.5% for life Technical Premiums (TP), which is still far from the 20% market share allowable under the Directive. Considering the number of undertakings, 27% of the undertakings are allowed a limited quarterly reporting and 5% of groups have exemptions from quarterly reporting.

At country level, the top three countries allowing exemptions by number of undertakings are Luxembourg, France and Norway with 70%, 67% and 64% respectively. Looking at the exemptions in terms of total assets, however, a different picture emerges: Liechtenstein ranks highest, followed by Malta and France with 7.1%, 6.5% and 5.4% respectively.

However, these numbers need to be read in the context of the additional proportionate and risk-based approaches in reporting. This Report uses two examples, the derivatives and the look-through templates, to exemplify the overall impact of proportionality.

Insurance undertakings without derivatives in their portfolio simply do not need to report the templates S.08.01 and S.08.02 on derivatives. The risk profile remains the main source of proportionality with 52% of undertakings not reporting template S.08.01 due to "no derivatives" (embedded proportionality). In this case, no threshold is applied but 22% of the undertakings were exempted by the NCAs from quarterly reporting. In total only 26% of the undertakings needed to report template S.08.01 in Q1 2018.

In the case of template S.06.03 on look-through, in total only 23% of the undertakings had to report template S.06.03 in Q1-2018. The analysis revealed that 28% of undertakings don't report as they have no investments in collective investment undertakings (CIU) (embedded proportionality), 41% of the undertakings are exempted due to the risk-based threshold included in the ITS (CIU>0% and <30% of the investments) and 8% of the undertakings were exempted by the NCAs from quarterly reporting.

The majority of NCAs confirmed in 2017 not having any formal policies in place for granting the authorisation to use limitations or exemptions from reporting and to withdraw such authorisation in order to ensure the effective supervision and the stability of the insurance sector. In total 13 NCAs granted limitations, 7 of which have formal policies in place. In addition, the survey revealed that NCAs do not expect major changes for 2018 in this regard.

However, in 2017 some NCAs changed their risk-oriented policy in a way that also larger companies with very good/good risk classifications can be exempted from reporting, which indeed had a positive impact on the number of undertakings benefiting from limitations or exemptions.

I. BACKGROUND

1. According to Article 35, paragraphs 6 and 7 of the Solvency II Directive, [1] NCAs may limit regular quarterly supervisory reporting and exempt certain undertakings from item-by-item reporting, where the submission of that information would be overly burdensome in relation to the nature, scale and complexity of the risks inherent in the business of the undertaking. It is noted, however, that Article 35 only permits exemptions for undertakings until a maximum of 20% of the Member State's life, non-life insurance and reinsurance markets respectively. Moreover, the Article requires NCAs to prioritise the smallest undertakings. Finally, the exemption should not undermine the stability of the financial systems concerned in the European Union.

2. For the purposes of this Report, it is important to clarify the terminology used:

   - **Limitation:** According to Article 35 (6) undertakings can be authorised to submit a reduced scope of quarterly reporting, where this information is reported at least annually. Any template except S.28.01 or S.28.02 can be subject to a limitation from regular reporting (without prejudice to Article 129(4) of the Solvency II Directive as regards the Minimum Capital Requirement, i.e. at least the template regarding MCR information needs to be submitted quarterly);

   - **Exemption:** According to Article 35 (7) undertakings can be exempted from both quarterly and annual reporting only if the templates are reported on an item-by-item basis. A template is subject to 'reporting exemption', when it is exempted both quarterly and annually on an item-by-item basis.

   - Under Article 254(2), paragraph 2 and 3, groups can benefit from limitation or exemption from reporting only in those cases, where all insurance or reinsurance undertakings within the group benefit from the limitation or exemption. A third country insurance undertaking should be limited or exempted from any regular supervisory reporting requirement, where the submission of that information would be unduly burdensome in relation to the nature, scale and complexity of the risks inherent in the business of the branch. [2]

   - Under Annex II and III of Regulation (EU) 2015/2450 with regard to the templates for the submission of information to the supervisory authorities, regarding the quantitative reporting templates S.06.02 and S.08.01, open derivatives exemptions from reporting of credit rating information can be granted.

3. The limitations and exemptions (LER) foreseen in Article 35 are a concrete proportionality measure in reporting requirements but should not be seen as the only proportionality measure in reporting requirements. The following proportionality measures should also be considered:

   — Embedded proportionality

   — Risk-based thresholds

[1] Undertakings for who the Solvency II regime is considered too burdensome fall under Article 4 of the Directive and are exempted from the full Solvency II requirements. Insurance undertakings not falling under the exemption of Article 4 are expected to fulfil the Solvency II and corresponding reporting requirements.

[2] Guideline 48 – Proportionality reporting

4. The extension of reporting is directly connected to the nature, scale and complexity of the business.

5. The risk profile is the main trigger for proportionality on reporting as outlined in this chapter: for example, insurance undertakings without derivatives in their portfolio simply do not need to report the templates S.08.01 and S.08.02 on derivatives. Those, that have securities lending and repos only need to report the corresponding template S.10.01, when they have more than 5% of their total investments in this asset class as outlined in the ITS reporting. Furthermore, the same applies for the template S.07.01 to those insurance undertakings who have more than 5% invested in structured products. The corresponding threshold for quarterly reporting of the look-through template for CIUs (S.06.03) is 30%, just to name some examples.

6. This Report takes a holistic approach towards proportionality in reporting. Departure point were the conclusions from the 2017 Report. EIOPA, on the basis on Article 35 (6) and (7) and Article 254 (2) of the Solvency II Directive, analyses the annual and quarterly use of the limitations and exemptions across Member States in order to inform stakeholders on their use and also to assess the degree of supervisory convergence and detect and follow-up potential inconsistent applications. The findings of this analysis together with quantitative information on the limitations and exemptions is laid down in this Report.

7. The aim of this Report is also to follow up on EIOPA's conclusions regarding the analysis of the processes followed by each authority to grant limitations or exemptions from reporting in different markets.

II. DATA SOURCES

8. This Report is based on information submitted to EIOPA by NCAs via the QRTs and an additional survey. It contains information based on the situation at the end of the year 2017 – covering exemptions from solo and group annual reporting – as well as information on the first quarter of 2018 – covering limitations on both solo and group quarterly reporting. All financial and solvency figures are based on the 2017 year-end data.

9. EIOPA conducted the survey among national supervisors from the 28 European Union Member States and the 3 EEA members on the usage of limitations and exemptions at both solo and group level during 2017 and Q1 2018 and received answers from all.

10. Quantitative information is obtained of the following reporting templates:
    - Solvency Capital Requirement (SCR): from the Own Funds template (S.23.01) ([3])
    - Gross Written Premiums (GWP): from the Premiums, claims and expenses by line of business template (S.05.01)
    - Technical provisions (TP): from the Balance sheet template (S.02.01)
    - Total assets: from the Balance sheet template (S.02.01)

11. The reporting information was converted to EUR based on ECB exchange rates at the relevant dates, when necessary.

([3]) Limitations cannot be granted for the S.28.01 or S.28.02 MCR template

III. PROCESS FOR GRANTING LIMITATIONS AND/OR EXEMPTIONS FROM REPORTING TEMPLATES

12. In 2017, EIOPA collected information on the process for granting limitations or exemptions from reporting from each NCA via a dedicated survey for the third time.

Limitation

13. In some cases, undertakings or groups need to apply for the limitation, in others only groups have to apply for limitations under Article 35 (6), while in the remaining cases the limitations are decided by the NCAs with no requirement for the undertakings or groups to apply. In the case where undertakings need to apply for limitations under Article 35 (6), no standardised answers regarding the frequency of applications were given. Indeed, limitations are low in number in both 2017 and 2016 and depend very much on market characteristics. Applications for limitations under Article 35 (6) of the Solvency II Directive would need to be done every reporting year and require approval for both quarterly and annual reporting by some NCAs.

Exemption

14. In some cases, undertakings or groups need to apply for the exemption, while in others the exemptions are decided by the NCAs with no requirement for the undertakings or groups to apply. In the case where undertakings need to apply for the exemption under Article 35 (7), also no standardised answers were given. Exemptions were low in number, both in this survey as in the previous one.

Internal policies and processes

15. As described in the quantitative update of this Report, the majority of insurance undertakings has not applied and/or has not given any limitations or exemptions in both 2017 and 2016.

16. Apart from the EIOPA Guidelines (such as e.g. EIOPA-BoS-15/106) and the relevant articles of the Solvency II Directive, the majority of NCAs confirmed in 2017 to not have had any formal policies in place for granting the authorisation to use limitations or exemptions from reporting and to withdraw such authorisation.

17. Indeed, the Solvency II legislation seemed to be sufficiently clear in its second year of operation and no major changes in setting formal policies could be seen. In fact, the same 10 NCAs as in the previous year applied a formal policy. In addition, the survey revealed that NCAs do not expect major changes for 2018 in this regard.

18. However, some new observations from the current study are worth mentioning:

- Some NCAs changed their risk-oriented policy in a way that also larger companies with very good/ good risk classifications systems can be limited/exempted from reporting templates. This indeed had a positive impact on the number of undertakings reporting limitations or exemptions
- Other NCAs stated to have already benefited from guidelines they implemented previously and now use as a base for further work
- Some NCAs e.g. inform the whole market via letters regarding the framework of all limitations and exemptions of quantitative regular reporting information or by publishing Q&As to clarify under which conditions an application for limitation of quarterly reporting may be granted

19. Hence, it is worth noting that NCAs are in general proactive in monitoring the granting of their authorisations to use limitations or exemptions from reporting. It will be interesting to see how this process will develop in the future. It is important to note that after two full years of implementation of Solvency II, with all reporting systems in place, some undertakings, even if allowed not to report, prefer to continue doing it. This is not only due to the fact that the systems are already in place but also because the limitation/exemption may be withdrawn at the end

of one year, which creates uncertainty and instability to undertakings.

20. In this regard, EIOPA will monitor the future process. A revision of this study will take place in 2019 to take further actions. The results of the EIOPA Reports for the first 3 years of implementation will also be taken into account in the Solvency II 2020 revision.

Automatic versus case-by-case assessment

21. When NCAs grant any authorisation to use limitations or exemptions from reporting the set factors in Article 35 (8) of the Solvency II Directive have to be considered. Some NCAs already established risk-classification systems for each single undertaking to apply these factors. In this respect, insurance undertakings are grouped according to different categories of risk.

22. In 2017, limitations or exemptions from reporting continued to be decided mostly on an "undertaking by undertaking" basis, depending on the risks the undertaking faces. In fact, no changes can be reported when compared with last year's survey. This study revealed indeed that NCAs, in the second year, where full year-end Solvency 2 data was used, did not find the case-by-case approach overly burdensome. NCAs explicitly mentioned it would have been more complicated for them to create extra reports in order to get a full picture of the market. NCAs take above all the business model and its complexity but also the continuity of the undertakings' future activities into consideration, involve their management team and seek an open dialogue with affected undertakings. In some cases, NCAs performed a more general assessment, and based their case-by-case assessment on automatic application thresholds derived from e.g. balance sheet data or other criteria such as e.g. market coverage of 80% in terms of premium volumes or technical provisions.

23. Hence, there is a broad variety of different approaches taken by NCAs on a case-by-case basis with no standardised predefined criteria. Criteria is usually aligned to the risks insurance undertaking are facing.

24. As in most cases no limitations or exemptions were granted, it is not surprising to not detect any major changes in this year's survey. In all but one case no changes to the procedure were reported during 2018 regarding the need of undertakings to apply for limitations or exemptions. One NCA has changed the process for quarterly reporting limitations, following which the undertakings does not need to discuss its eligibility with the supervisor before making a formal application.

Domestic and cross-border groups

25. Some NCAs reported that processes are not formalised yet as they simply did not have sufficient experience. Communication is mainly with the group supervisor and other College Members via regular meetings and telcos of the College of Supervisors.

26. When NCAs plan to grant limitations or exemptions from reporting to an individual undertaking, which is part of a cross-border group or to a cross-border group itself, various processes were identified:

- Insurance and reinsurance undertakings are informed in writing in a timely manner if they are exempted from reporting.
- In case of solo undertakings belonging to a group additional information relating to Article 35 is requested from the undertaking as part of the process to grant the exemptions /limitations.

IV. QUANTITATIVE UPDATE

Quarterly exemptions for solo undertakings

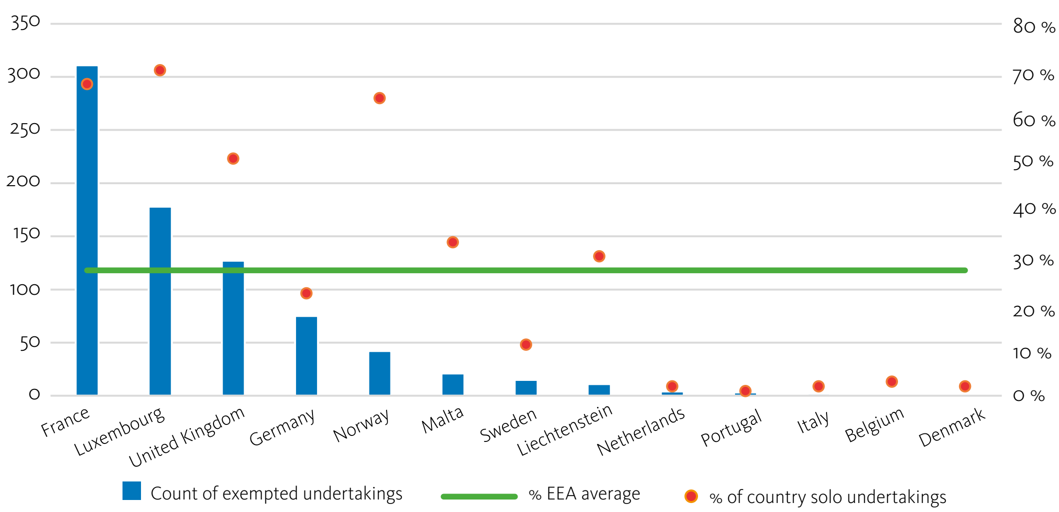
27. Compared with the previous year, three more NCAs, in total 13, granted limitations to 791 solo undertakings for the first quarterly reporting in 2018 (compared with ten NCAs and 703 solo undertakings in the first quarter 2017) (Table 1.1 and Figure 1.1). This is in line with EIOPA's expectation that the number of limitations and exemptions will increase as outlined in last year's report. [4]

[4] For full details on the previous Report on the use of limitations and exemptions refer to https://eiopa.europa.eu/publications/reports

Table 1.1 – Summary of limitations for solo undertakings from quarterly reporting in Q1 2018

COUNTRY NAME	Number of undertakings with exemptions	% number of undertakings	% exemption Total assets	% exemption SCR	% exemption Non-Life GWP	% exemption Life TP
EU Total	791	27%	4.30%	7.40%	3.70%	3.50%
FRANCE	311	67%	5.40%	8.40%	14.60%	4.50%
LUXEMBOURG	178	70%	4.70%	24.70%	0.80%	0.10%
UNITED KINGDOM	127	51%	3.40%	4.20%	3.00%	3.20%
GERMANY	75	22%	3.00%	4.50%	3.50%	2.50%
NORWAY	42	64%	1.50%	9.90%	8.00%	0.10%
MALTA	21	33%	6.50%	13.10%	5.80%	0.50%
SWEDEN	15	11%	0.30%	0.70%	0.70%	0.00%
LIECHTENSTEIN	11	30%	7.10%	17.70%	0.50%	4.00%
NETHERLANDS	4	2%	0.00%	0.10%	0.00%	0.00%
PORTUGAL	3	1%	0.10%	0.20%	0.30%	0.00%
ITALY	2	2%	0.004%	0.02%	0.15%	0.0%
BELGIUM	1	3%	0.30%	0.60%	0.00%	0.30%
DENMARK	1	2%	0.00%	0.00%	0.00%	0.00%

Figure 1.1 – Number of undertakings benefiting from quarterly reporting in Q1 2018 (versus Q1 2017)



28. Looking at the percentage from quarterly exemptions at country level, a different ranking emerges depending on how the exemptions are measured (Table 1.2).

Indeed, some NCAs have exempted all templates, whereas other NCAs only apply exemptions to some (Table 1.3). It should be stressed though, that e.g. for derivatives, to stick with one of the two examples of this report, some NCAs simply did not apply for an exemption as they don't use derivatives at all. For each Member State, Table 1.3 shows which reporting template is most subject to exemptions from reporting. Table 1.3 shows the share by total assets of undertakings exempted per exempted template.

Table 1.2 – Top 3 countries with limitations for solo undertakings from quarterly reporting in Q1 2018

Country Ranking	% exemption by number of undertaking	% exemption Total assets	% exemption SCR	% exemption GWP	% exemption TP
1	Luxembourg	Liechtenstein	Luxembourg	France	France
2	France	Malta	Liechtenstein	Norway	Liechtenstein
3	Norway	France	Malta	Malta	United Kingdom

Table 1.3 – Overview of countries with limitations for solo undertakings from quarterly reporting in Q1 2018¬

Country	Balance sheet	Premiums, claims and expenses by line of business	List of assets	Collective investment undertakings	Open derivatives	Derivatives Transactions	Life and Health SLT Technical Provisions	Non-life Technical Provisions	Own funds
BELGIUM	0%	0%	0%	100%	0%	0%	0%	0%	0%
DENMARK	0%	100%	100%	100%	100%	100%	100%	100%	100%
FRANCE	71%	71%	62%	99%	49%	48%	69%	56%	70%
GERMANY	0%	100%	100%	100%	100%	100%	100%	100%	100%
ITALY	1%	1%	1%	100%	0%	0%	0%	1%	1%
LIECHTENSTEIN	0%	75%	100%	62%	32%	32%	36%	48%	0%
LUXEMBOURG	100%	100%	100%	100%	100%	100%	100%	100%	100%
MALTA	100%	100%	100%	100%	100%	100%	100%	100%	100%
NETHERLANDS	100%	100%	100%	19%	19%	19%	19%	100%	100%
NORWAY	0%	0%	100%	100%	100%	100%	0%	0%	0%
PORTUGAL	100%	100%	100%	100%	100%	100%	100%	100%	100%
SWEDEN	100%	100%	100%	100%	100%	100%	100%	100%	100%
UNITED KINGDOM	99%	100%	100%	99%	96%	95%	90%	26%	99%
Grand Total	72%	82%	85%	99%	77%	77%	79%	64%	81%

V. PROPORTIONALITY PRINCIPLE IN QUARTERLY REPORTING

29. As stated above the limitations and exemptions allowable under Article 35 are a concrete proportionality measure but should not be seen as the only proportionality measure in reporting requirements.

30. To evidence how proportionality is implemented in the quarterly reporting two examples using the look-through template (S.06.03) and the derivatives template (S.08.01) are used.

Look-through solo template

31. Quarterly information on look-through shall only be reported when the ratio of CIUs held by the undertaking to total investments, measured as the ratio between item C0010/R0180 of template S.02.01 plus CIUs included in item C0010/R0220 of template S.02.01 plus CIUs included in item C0010/R0090 and the sum of item C0010/R0070 and C0010/RC0220 of template S.02.01, is higher than 30%.

32. This means that the template needs to be reported only if the CIUs are above the threshold of 30% compared to the total investments (Table 1.4).

33. Overall, considering all proportionality measures applicable to quarterly reporting, only 23% of insurance undertakings covering 41% of the total investments in 2017 had to report the template S.06.03 in Q1 2018 (Table 1.3). Those 23% of undertakings that had to report the look-through template covered 77% of the total CIU investments.

34. In the case of Portugal, Spain and the Czech Republic the share of the number of undertakings that does not need to report ranks extremely high with 96%, 94% and 92% respectively, which means that undertakings from these countries have a relatively low investment in CIUs. In the case of Finland, Lithuania and Cyprus on the other hand undertakings have in average a higher investment in CIUs (8%, 19% and 29% respectively) and therefore only a small number of undertakings are below the threshold. Furthermore, five out of the top ten insurance undertakings do not need to report the look-through template quarterly. Hence, this analysis of the threshold shows that the threshold is in fact risk-based and reflect the nature, scale and complexity of the business, i.e. reflect proportionate requirements.

Derivatives solo template

35. The derivatives solo template needs to be reported quarterly by all undertakings with open derivatives at the end of the quarter.

36. In total 52% of solo undertakings had no derivatives at the end of Q1-2018 and were hence exempted from reporting such a template (embedded proportionality). It should be noted that in this case no threshold applies.

37. Overall, 22% of the undertakings were exempted by the NCAs from quarterly reporting.

38. In total only 26% of the solo undertakings needed to report template S.08.01 in Q1 2018.

Table 1.4 – Ratio of collective investment undertakings held by the undertaking to total investments

	Number of undertakings	% of number over total undertakings	% Total Investments ([5])
Embedded proportionality: Due to no CIU investments	809	28%	1%
Thresholds in the ITS (CIU>0 but <30%): limitation due to risk-based threshold	1194	41%	57%
Article 35 (6) limitations	233	8%	1%
(Undertakings with CIU >30% but exempted)			
TOTAL	2236	77%	59%

([5]) Total investments calculated as R0070 + R0200 from the Solvency II Balance sheet.

39. Overall, the share of those not using derivatives is very high, ranking from 23% to 79% in different countries.

Annual exemptions for solo undertakings

40. Five NCAs (four in 2016) granted exemptions from reporting item-by-item templates to 133 solo under-takings for the annual reporting of 2017 (134 in 2016)(Table 1.5) showing an increase in the number of ex-emptions provided.

41. The number of undertakings using limitations from reporting compared to the total number of undertakings, per country and at EU level across all Member States is shown below (Table 1.5). It shows as well the sum of total assets using limitations over all EU Member States and per country.

Some templates are not applicable and hence no exemptions are granted (Table 1.6). Table 1.6 shows the share by total assets of the exempted template to all exempted undertakings. (6)

(6) Information is based on data submissions and the survey.

Quarterly Exemptions for groups

42. Three NCAs (four in quarterly 2017) granted exemptions from reporting for Quarterly Exemptions for 33 groups in Q1 2018 (Table 1.7).

Table 1.7 – Summary of Quarterly Exemptions for groups in Q1 2018

COUNTRY NAME	Number of groups with exemptions	% exempted groups
EU Total	33	11%
UNITED KINGDOM	22	35%
GERMANY	10	10%
PORTUGAL	1	13%

Annual Exemptions for groups

43. Three NCAs (three in 2016) granted exemptions from reporting for Annual Exemptions for 7 groups in 2017 (Table 1.8).

Table 1.8 – Summary of Annual Exemptions for groups in 2017

COUNTRY NAME	Number of groups with exemptions	% exempted groups
EU Total	7	2%
DENMARK	2	15%
GERMANY	4	8%
NORWAY	1	14%

Table 1.5 – Summary of annual exemptions for solo undertakings in 2017

COUNTRY	Number of undertakings with exemptions	% number of undertakings	% exemption Total assets	% exemption SCR	% exemption Non-Life GWP	% exemption Life TP
EU Total	133	5%	1,00%	1,30%	0,90%	0,90%
GERMANY	65	19%	2,30%	3,70%	3%	1,70%
NORWAY	44	67%	2,60%	12,50%	20%	0,40%
LIECHTENSTEIN	15	41%	12,80%	22,40%	1%	33,10%
UK	6	2%	0,00%	0,10%	0%	0,00%
DENMARK	3	6%	15,80%	12,60%	0%	16,90%

Table 1.6 – Overview of countries with limitations for solo undertakings from annual reporting in 2017

	List of assets	Collective investment undertakings	Structured products	Open derivatives	Derivatives Transactions	Securities lending and repos	Assets held as collateral
DENMARK	0%	33%	66%	0%	0%	0%	0%
GERMANY	0%	0%	84%	99%	99%	0%	84%
LIECHTENSTEIN	100%	43%	15%	28%	28%	0%	15%
NORWAY	100%	100%	21%	100%	100%	29%	25%
UNITED KINGDOM	0%	81%	81%	81%	80%	81%	100%
Grand Total	44%	42%	55%	89%	89%	13%	55%

VI. PROCESS FOR GRANTING LIMITATIONS REGARDING THE REPORTING OF CREDIT RATING INFORMATION

44. EIOPA conducted this survey among national supervisors to determine the key processes for granting limitations regarding the reporting of credit rating information.

45. Note that this section focuses on exemptions from the credit rating information only. Undertakings which are exempted from the full templates S.06.02 and S.08.01 are not included in the analysis below. [7]

46. Credit ratings information is considered an important information under Solvency II. Hence, the EIOPA Survey revealed once more that during 2017 no substantial changes in the criteria applied to grant limitations from reporting of credit rating information were reported.

47. This means in a nutshell for the majority of NCAs that there are no processes implemented to limit the reporting of external credit ratings. However, it should be noted, that in quarterly solo reporting for Q1 2018, 22.3% of the undertakings that reported S.06.02 did not report any credit rating information. This situation will be further investigated.

7 Further details are set out in Annex II and Annex III of the Commission Implementing Regulation (EU) 2015/2450, templates S.06.02 and S.08.01

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