REPORT ON THE USE OF CAPITAL ADD-ONS DURING 2017

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EXECUTIVE SUMMARY

The objective of this report is to contribute to a higher degree of supervisory convergence in the use of capital add-ons between supervisory authorities in the different Member States and highlight any concerns regarding the capital add-ons framework.

The analysis in this report is based on 2017 year-end Solvency II data as reported by the undertakings and insurance groups via the Solvency II Quantitative Reporting Templates (QRTs) and an additional survey addressed to National Competent Authorities (NCAs) from the 28 European Union Member States and 3 European Economic Area members.

Based on the answers to the dedicated survey, 30 NCAs reported they did not implement any change in their policy for assessing the potential need for setting and reviewing a capital add-on during 2017. Considering this, the conclusions from the previous report are still valid: the majority of NCAs has no formal policy in place for setting and reviewing the capital add-ons. The reasons stated for this are twofold: on the one hand insurance companies are currently in general well capitalised across Member States and hence the need for capital add-ons is overall limited; on the other hand, Solvency II has only been in operation for two years, and NCAs need to acquire some experience first in order to be in a position to formalise such policies.

During 2017, six NCAs have set capital add-ons to 23 solo insurance and reinsurance undertakings. These include 14 non-life undertakings, 6 life undertakings, two reinsurers and one composite. In 2016, four NCAs set capital add-ons to a total of 20 solo insurance undertakings.

For groups, in 2016, one supervisor used this measure for four groups. In 2017, this NCA had once more set capital add-ons to four groups (same number but changes regarding the groups), and in addition one more NCA set capital add-ons to two groups for the very first time.

Hence, albeit a slight increase in the use of capital add-ons can be seen, the overall usage remains extremely limited. This limited usage might be due to the negative image that is attributed to capital add-ons which in turn inhibits supervisors from using it or to the level of judgement that is associated to the decision and calculation of the capital add-ons. This in conjunction with all disclaimers on “exceptional”/”last resort” results in a limited use by supervisors even if considered needed. Based on the analysis, it seems that the use of capital add-ons is linked to the level of capitalisation of the market. However, it should be noted that the Solvency Capital Requirement (SCR) should reflect all quantifiable risks to which an undertaking is exposed and should correspond to a Value-at-Risk of the basic own funds of an undertaking subject to a confidence level of 99.5% over a one-year period. Capital add-ons is a measure that corrects the SCR regardless of the amount of eligible own funds.

This is also a matter of transparency and market discipline as solvency ratios are disclosed as part of the Solvency and Financial Condition Report (SFCR).

It should also be mentioned that according to Article 51 (2) of the Solvency II Directive, EU and EEA Member States might exercise the option to temporarily limit the public disclosure of capital add-ons. Most Member States exercised the option until December 2020. However two Member States used it only until the year-end 2017. Eventually, this disclosure should stimulate both an improvement in risk management, but as well lead to the better alignment of the SCR with the undertakings risk profile.

However, even if the capital add-ons are not used often, when used they have indeed a material impact on the SCR of some of the entities. The weight of the capital add-on ranges from a low 1% to a high 83% respectively (between 2% and 85% in 2016) with an average of 30% of the total SCR.

Capital add-on seems to be a good and positive measure to adjust the SCR to the risks of the undertaking, when the application of other measures is not adequate, such as e.g. the development of an internal model, as in 18 cases the capital add-on was already set in 2016.

In the years to come EIOPA will continue to analyse the development on the use of capital add-ons to monitor whether more experience will encourage NCAs to make more efficient use of this tool that seem to have been hampered by various difficulties in the recent past.

I. BACKGROUND

A capital add-on is a supervisory measure available to supervisory authorities to be used under exceptional circumstances, only in the cases listed in the Directive 2009/138/EC (hereinafter Solvency II Directive). The use of this measure should follow the supervisory review process and supervisors need to state the reasons for such decision. The objective of such measure is to ensure that the regulatory capital (Solvency Capital Requirement) reflects the risk profile of the insurance and reinsurance undertakings (hereinafter undertakings) or insurance groups and should contribute to policyholder protection.

The imposition of a capital add-on is exceptional in the sense that it should be used only as a measure of last resort, when other supervisory measures are ineffective or inappropriate and should follow the conclusions of the supervisory review process. Capital add-ons should be considered when other measures have failed, are unlikely to succeed or are not feasible. The term exceptional should be understood in the context of the specific situation of each undertaking rather than in relation to the number of capital add-ons imposed in a specific market.

Undertakings and insurance groups with material risks not captured by the standard formula (article 37 (1) (a)) or the internal model (article 37 (1) (b)) or captured but where they are not adequately reflected in the assumptions underlying the calculation of their SCR may thus be required to hold higher levels of capital. A capital add-on may also be required when the system of governance of an undertaking or insurance group deviates significantly from the Solvency II standards (article 37 (1) (c)). Article 37 (1) (d) applies where there has been a significant risk profile deviation following the application of the matching adjustment, volatility adjustment or transitional measure in Article 308c or d. Further relevant legislation is laid down in Article 276 to 287 of the Commission Delegated Regulation (EU) 2015/35 and Commission Implementing Regulation 2015/2012 laying down implementing technical standards with regard to the procedures for decisions to set, calculate and remove capital add-ons.

Clear and timely communication between the supervisory authority and undertakings or insurance groups throughout the process of setting, calculating, reviewing and/or removing the capital add-on should be ensured.

EIOPA, on the basis on Article 52 (3) of the Solvency II Directive, analyses annually the application of the capital add-ons across Member States in order to inform stakeholders on their use and to assess the degree of supervisory convergence and detect and follow-up on potential inconsistent applications. The findings of such analysis together with quantitative information on the capital add-ons is laid down in this report.

The objective of this report is not to inhibit in any way the use of capital add-ons as a supervisory measure or to challenge specific situations where it was/was not used but to contribute to a higher degree of supervisory convergence in the use of capital add-ons between supervisory authorities in the different Member States and highlight any concerns regarding the capital add-ons framework.

EIOPA is publishing this report for the second time. Hence, emphasis is put on how the usage of capital add-ons developed from 2016 to 2017 and if and how the processes followed by each authority have evolved.

II. DATA SOURCES

The analysis in this report is based on 2017 year-end solvency II data as reported by the undertakings and insurance groups via the Solvency II Quantitative Reporting Templates (QRTs) and an additional survey addressed to National Competent Authorities. EIOPA extracted the relevant information from the Solvency II QRTs based on the annual information submitted in the templates S.25.01, S.25.02 and S.25.03 (on the Solvency Capital Requirement) and S.23.01 (on Own Funds).

EIOPA conducted the survey among national supervisors from the 28 European Union Member States and the 3 EEA members. The survey covered the usage of capital add-ons at both solo and group level as of year-end 2017, any changes in the processes and procedures related to the use of capital add-ons compared with the previous year as well as on any challenges identified in the use of capital add-ons. EIOPA received answers from all members.

III. PROCESSES

Following a notification and exchange of information before setting a capital add-on, once the supervisory authority decides to set a capital add-on, this decision should be communicated to the undertaking or group in written form. This should include a rationale for the decision to set the capital add-on, the amount, a description of the assumptions used and methodology applied, the timeframe in which the undertaking or group should implement the measures and actions to amend the circumstances leading to the decision of imposing a capital add-on.

Each capital add-on shall be reviewed at least once a year by the supervisory authority and be removed when the undertaking has remedied the deficiencies, which led to its imposition. However, it should be noted that both the supervisory authority and the undertakings should not rely only on the annual review of the capital add-on, but should proactively monitor the circumstances, which led to the setting of the capital add-on in order to respond appropriately. To this end, the undertakings should therefore provide the supervisory authority with progress reports on remedying the deficiencies that led to the imposition of the capital add-on in case of capital add-ons set under article 37 (1) (b) or (c) or notify the NCA of any changes to its risk profile that remove or materially change the deviation of the risk profile that led to a capital add-on set under article 37 (1) (a). It is also necessary to provide for a procedure to review decisions on capital add-on if there is a material change in the circumstances that led to the setting of the capital add-on. This requires NCAs to have in place a due process around such a measure.

IV. POLICIES

Based on the answers to the 2018 dedicated survey, 30 NCAs reported they did not implement any change in their policy for assessing the potential need for setting and reviewing a capital add-on during 2017.

However, one NCA highlighted one amendment to the Financial Business Act in 2017 to ensure complete and precise implementation of the Solvency II Directive. The Financial Business Act now states clearly that if the NCA considers that an insurance company's risk profile differs significantly from the assumptions of a group-internal model, that has been approved for the group by the group supervisor, the NCA may, for as long as the company has not found an appropriate solution to the deficiencies identified by the NCA, set a capital add-on or require the company to use the standard formula. Overall, the legislative amendment gives greater flexibility to the NCAs choice of reactions, which can then better address the individual insurance company.

Considering there were no major changes on the policies, the conclusions from last year's report [1] are still valid. The vast majority of NCAs has no formal policy in place for setting and reviewing the capital add-ons. The reasons stated for this were twofold: on the one hand insurance companies are currently in general well capitalised across Member States and hence the need for capital add-ons is viewed by NCAs as overall limited; on the other hand, Solvency II has only been in operation for two years, and NCAs need to acquire some experience first in order to be in a position to formalise such policies. From the answers received it seems that the use of capital add-ons is linked to the level of capitalisation of the market. However, it should be noted that the SCR should reflect all quantifiable risks to which an undertaking is exposed and should correspond to a Value-at-Risk of the basic own funds of an undertaking subject to a confidence level of 99.5% over a one-year period. Capital add-ons is a measure that corrects the SCR regardless of the amount of eligible own funds. Although EIOPA recognises that the impact of setting a capital add-on is higher when it might lead to a breach of the SCR, as it would lead to the need to raise more own funds, a capital add-on should be set by NCAs when the conditions under article 37 apply, regardless of the level of solvency.

This is also a matter of transparency and market discipline as solvency ratios are disclosed as part of the Solvency and Financial Condition Report (SFCR). If one particular company did not have a capital add-on set due to its capitalisation, then the SCR disclosed in the SFCR would simply not be a fair and true representation of its solvency position.

In sum, as of year-end 2017, again a total of six NCAs have a formal policy in place. In this context, one NCA also mentioned some process improvements, that might eventually develop into much more formalised policies, although they currently only have the aim to reduce paperwork. This NCA stated that the corresponding policy, where an add-on could be imposed, will be developed as soon as a supervisory need is detected in that area. Another NCA also reported to currently be working on the approval of a formal policy for a capital add-on with regards to particular issues on which risks could not be fully addressed by the standard formula as for example variable annuities. In addition,three NCAs stated to currently work on the formalisation of such policies.

In addition to these examples, another two NCAs refer to the relevant articles of the Solvency II Directive and Delegated Regulation, which due to their extension and detail are considered as internal policies even if they are not formal policies.

Even though they are no more formal policies in place, NCAs seem to handle such issues, i.e. they will be setting the appropriate procedure and formula on a case-by-case basis. EIOPA believes that all these developments will allow NCAs eventually to further develop formal policies for setting or reviewing a capital add-on.

Interestingly, from the six NCAs that have set capital add-ons, only two have formal policies in place. This might on the one hand suggest that the current regulation is in fact sufficient for the NCAs with well-defined existent processes that seem to be adequate for the purpose of setting capital add-ons.

(1) Published on EIOPA's webpage in publication folder, reports section: https://eiopa.europa.eu/publications/reports

The need to change internal processes or to develop policies was low, as simply the majority of NCAs has not set any capital add-ons (Table 1.1).

EIOPA also highlights in this context that two NCAs set capital add-ons in 2017 for the first time. These were governance capital add-ons removed before the year-end [2]. Processes for setting these proved also to be adequate in their current form as indeed both NCAs were able to remove the capital add-on before the year-end. The appropriateness of NCAs processes is also shown in the fact that in case changes were deemed necessary in NCAs processes, there were minor in content.

On the processes for capital add-ons in a group context, if the solo company is part of a cross-border group or the group is a cross-border group itself, the process of informing or consulting the other members of the group [3] remained unchanged for the majority of NCAs in 2017. This is mostly due to the fact that setting and reviewing capital add-ons is based on annual reviews, but also because the process of informing and consulting the other members of the College has not changed during 2017. One NCA has an internal decision in place that the supervisors need to inform the members of the College using information sharing platforms developed by group supervisors or by e-mails about the intention to set capital add-ons. Another NCA advises the supervisor to consult the other concerned supervisory authorities in the college of supervisor. The group supervisor shall always be duly informed and consulted before any decision pursuant to the setting of a capital add-on is taken, as confirmed by another NCA.

Overall, also processes in relation to Colleges are considered sufficient by NCAs. One NCA stated that pre-existing fora as for example EIOPA platforms proved useful and were used to discuss the capital add-ons topic. Indeed, these platforms are collaboration tools that are used for cooperation within Colleges.

EIOPA will continue to monitor the changes in the policies of the NCAs.

(2) A governance deviation is considered to be significant if it prevents the undertaking or group from identifying, measuring, monitoring, managing, and reporting the risks that it is exposed to or could be exposed to. Governance deficiencies could include the background, history and external environment of the group, regulatory changes that result into implications on the system of governance of the group, non-compliance with regulatory requirements indicating potential problems in internal control mechanisms or in general compliance, complaints from policyholders, high turnover of key personnel, lacking quality noted in the Solvency and Financial Condition Reports or in the Regular Supervisory Reports and also material changes observed on a frequent basis in the groups system of governance structure. The materiality of a deviation in governance can be measured both quantitatively and qualitatively. Quantitative materiality takes into account the financial loss that the solo undertaking or group could incur on account of the deviations. Qualitative materiality considers the quality of the system of governance as seriously impaired giving rise to material risks. The supervisory authority will establish the appropriate timeframe of a maximum limit of six months for the undertaking or the group to resolve the governance deviation prior to imposing a capital add on.

(3) Article 250 (1c) of the Solvency II Directive 2009/138/EC

V. DISCLOSURE

According to Article 51 (2) of the Solvency II Directive, EU and EEA Member States may exercise the option to temporarily limit the public disclosure of capital add-ons. In accordance with Article 51 (2) the capital add-ons information will only be publicly available for undertakings and insurance groups from all Member States at a later stage. For most undertakings, capital add-ons will need to be publicly disclosed on an annual basis from December 2020 onwards with the aim of improving market transparency and discipline. Two NCAs, however, already stated to have ended the transitional period by year-end 2017. Eventually, this disclosure should stimulate both an improvement in risk management, but as well lead to the better alignment of the SCR with the undertakings risk profile.

Despite this option, two undertakings in one country were fully transparent during 2017 in their Solvency and Financial Condition Report (SFCR) and voluntarily disclosed the amount of capital add-ons. The disclosure included not only the amounts but as well explanations for the reasons why a capital add-on has been set. Even if EIOPA is neutral regarding the use of such an option it found it rewarding that such undertakings were fully transparent as this also supports the de-mystification of the capital add-on.

VI. NUMBER OF CAPITAL ADD-ONS FOR SOLOS

Six NCAs have set capital add-ons during 2017 to 23 solo insurance undertakings. These include 14 non-life undertakings, 6 life undertakings, two reinsurers and one composite. In 2016, 4 NCAs set capital add-ons a total of 20 solo in-surance undertakings. Hence, albeit a slight increase, the overall usage remains extremely low.

From the universe of all undertakings in Europe only in 23 cases the conditions referred to in article 37 of Solvency II Directive apply. This limited usage might be due to the negative image that is attributed to capital add-ons which in turn inhibits supervisors from using it or to the level of judgement that is associated to the decision and calculation of the capital add-ons. On the other hand, in some cases, a NCA' early engagement/dialogue with undertakings led undertakings to set a prudent margin.

This in conjunction with all disclaimers on "exceptional"/"last resort" may again inhibit supervisors from using such a tool even if considered needed.

These observations are somehow evidenced by what was called in EIOPA's previous capital add-on report as "self-imposed" capital add-ons. In 2017, EIOPA came across five cases of these "self-imposed" capital add-ons from two different Member States once more.

These "self-imposed" capital add-ons may evidence two different situations:

a) undertakings where a capital add-on should in fact be considered by the NCA and is not due to the reasons stated above;

b) undertakings that decide to take a more prudent approach than the one in the Standard Formula but the SCR is compliant with article 101(3).

The first situation should be avoided as it would not be in line with Solvency II and could create comparability problems and lack of transparency as stated in Section IV.

EIOPA believes that the process of setting a capital add-on should be convergent as far as possible, and as a consequence there should be convergence in the circumstances under which a capital add-on is being set. Capital add-ons are required to reflect the risk an undertaking is exposed to appropriately. This would allow supervisory authorities to learn from each other and gain experience in the use of this tool.

The second situation is possible and welcomed but the use of the expression "self-imposed capital add-ons" is not adequate. Undertakings are free to hold additional capital in excess of the capital requirements to the amount they consider as appropriate. In this case, the SCR calculated according to the Solvency II rules is still the relevant SCR, even if an undertaking voluntarily holds capital in excess of the SCR. In case the own funds were to fall below the level of what the undertaking/group considers to be the appropriate SCR in view of the deviation or deficiency, this would not trigger the legal consequences of a non-compliance with the SCR. This situation is to be reflected in the ORSA, under overall solvency needs, and not to be considered as a capital add-on.

Capital add-ons are mainly set to solo undertakings using the standard formula (Table 1.1).

Table 1.1 – Capital add-ons at solo level in 2017 by type of capital add-ons

	Total	Imposed under article 37 (1) a	Imposed under article 37 (1) b	imposed under article 37 (1) c	Imposed under article 37 (1) d
Total EEA	**23**	**19**	**2**	**2**	**0**
Life	6	5	1		0
Non-life	14	11	1	2	0
Reinsurance	2	2	0	0	0
Composites	1	1	0	0	0

Source: EIOPA

This is in line with the assumption that the approval of an internal model assumes by definition recognition by the supervisor that the internal model adequately reflects the material risks of undertaking. However, there were two capital add-ons set to undertakings using internal models.

Capital add-ons set under article 37(a) reflect risk profiles that deviate significantly from the standard formula. The deviation is considered significant when the revised SCR calculated using the standard formula, or an approved internal model modified to reflect the actual risk profile of the solo undertaking or group, exceeds the SCR by 10%. ([4])

Most of the capital add-ons observed at the end of 2017 were already set at the end of 2016. However, the following change was observed (Table 1.2):

- 5 new capital add-ons were set, i.e. 1 for a composite undertaking, 1 for a life undertaking and 3 more were set for non-life insurance undertakings
- One capital add-on for a reinsurance company and one for a life company was removed.

As stated before only six NCAs are using capital add-ons as a supervisory measure, of which one single NCA sets about 60% of the capital add-ons (see Table 1.2 above). One could conclude that with more experience, more NCAs will be able to use this supervisory measure more often. However, it is unclear at the moment if NCAs are considering the capital add-ons as a real potential tool to be used or if it is rather seen as impossible to apply this tool given the explicit and implicit limitations reflected in the Solvency II framework. EIOPA believes that the capital add-on tool is a crucial tool under the Solvency II regime and its limited use should be subject to on-going monitoring and analysis.

Table 1.2 – Capital add-ons at solo level in 2017 (compared with 2016) by country

Country	Number of CAOs	Of which Life	Of which Non-Life	Of which Reinsurance	Of which Composites
Total EEA	**23(20)**	**7 (7)**	**13 (10)**	**2 (3)**	**1 (0)**
France	2 (2)	1 (1)	1 (1)	0 (0)	0 (0)
Italy	1 (0)	0 (0)	1 (0)	0 (0)	0 (0)
Ireland	2 (1)	1 (1)	1 (0)	0 (0)	0 (0)
Norway	2 (2)	0 (0)	2 (2)	0 (0)	0 (0)
Netherlands	2 (0)	1 (0)	1 (0)	0 (0)	0 (0)
UK	14 (15)	4 (5)	7 (7)	2 (3)	1 (0)

Source: EIOPA

([4]) A risk profile deviation is considered to be significant if the revised SCR calculated using the standard formula, or an approved internal model modified to reflect the actual risk profile of the solo undertaking or group, exceeds the SCR by 10%.

VII. NUMBER OF CAPITAL ADD-ONS FOR GROUPS

Where the risk profile of the group is not adequately reflected, a capital add-on to the consolidated group SCR may be imposed.

EIOPA reported in 2016 that this measure was used by 1 supervisor (UK) for 4 groups. In 2017, once more four UK groups had a capital add-on set, albeit the groups changed as one UK group saw its capital add-on removed, while another group had a capital add-on set for the first time. In addition, two Dutch groups had a capital add-on set (Table 1.3).

Table 1.3 – Capital add-ons at group level in 2017 (compared with 2016) by country

Country	Number of CAOs	Of which imposed under article 37(1)(a)	Of which imposed under article 37(1)(b)	Of which imposed under article 37(1)(c)	Of which imposed under article 37(1)(d)
Total EEA	**6**	**4 (3)**	**2 (1)**	**0(0)**	**0 (0)**
Netherlands	2	0 (0)	2 (0)	0 (0)	0 (0)
UK	4	4 (3)	0 (1)	0 (0)	0 (0)

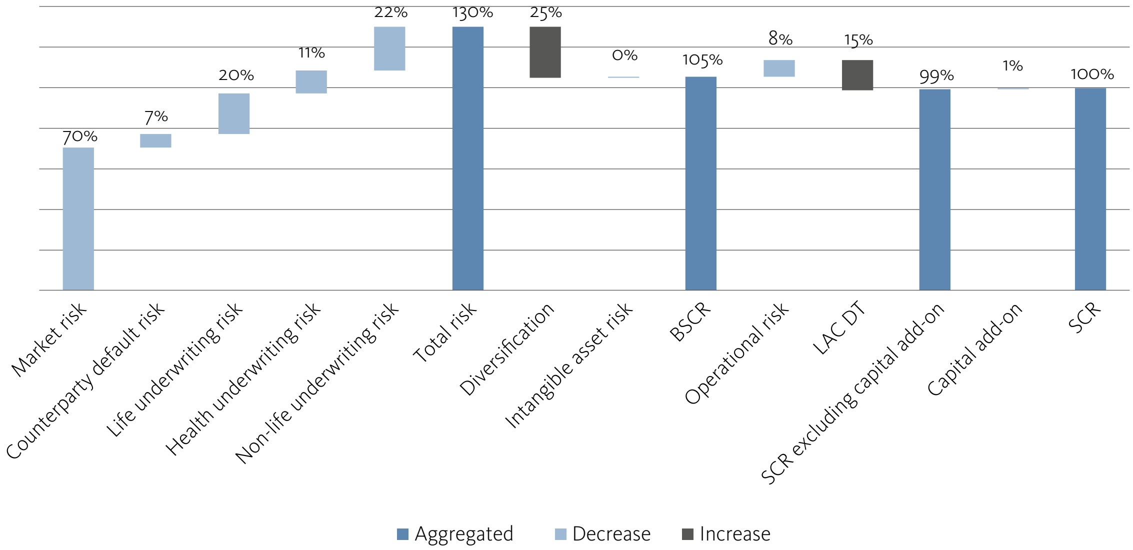
Source: EIOPA

VIII. AMOUNT OF CAPITAL ADD-ONS

The amount of the capital add-ons for all undertakings using the standard formula remains low overall in 2017 and amounts to 0.79% (rounded 1%) of the total SCR (Figure 1.1).

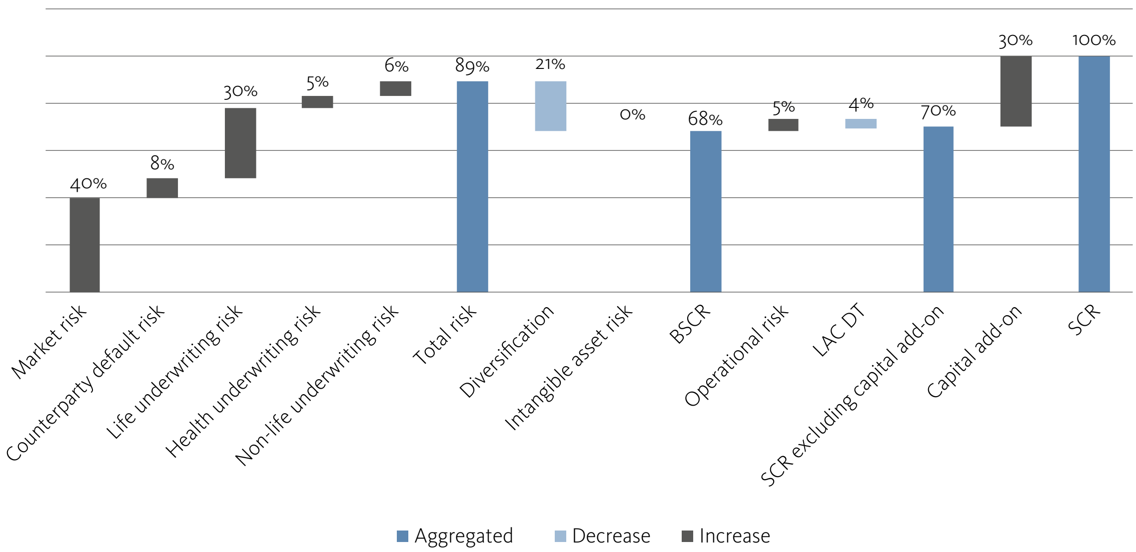
However, due to the low number of capital add-ons it is more adequate to assess the amount of capital add-ons as a percentage of total SCR for those insurers who also use capital add-ons. When this analysis is done, the weight of the capital add-ons increases to 30%. Hence, the capital add-on becomes one of the main drivers of the SCR (Figure 1.2).

Figure 1.1 – Main Components of SCR for all undertakings using the standard formula in 2017



Source: EIOPA

Figure 1.2 – Main Components of SCR for insurers using the standard formula with capital add-on, excluding insurers using Article 112 (S.25.01.01, S.25.01.02) in 2017



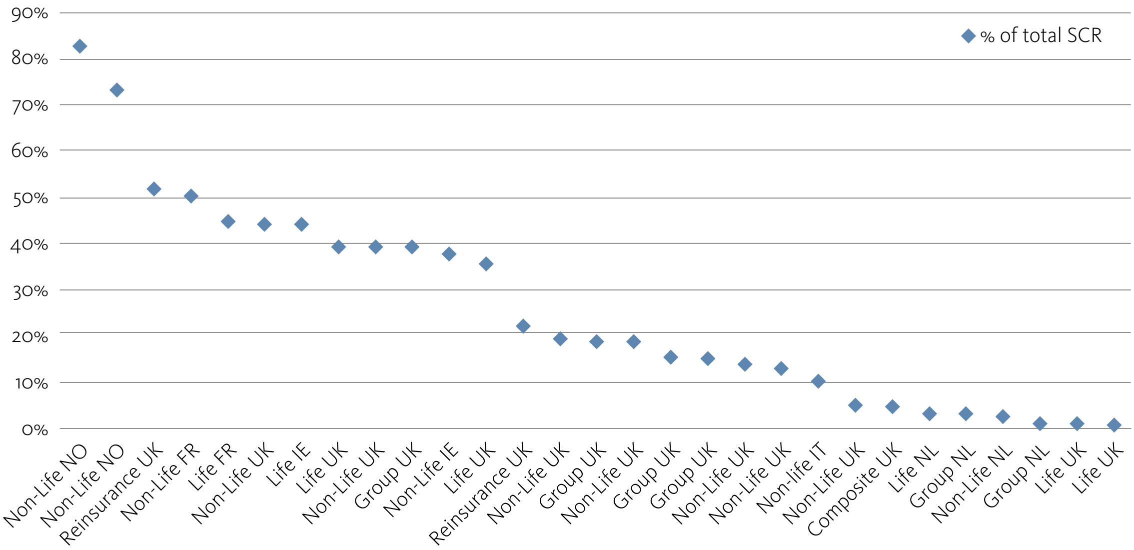
Source: EIOPA

Looking in more detail at these insurers the amount of the capital add-ons differs indeed substantially among NCAs in 2017 (Figure 1.3). There is one capital add-on with an amount of more than € 1 billion (as opposed to two in 2016), two vary between € 100 million and € 700 million (three in 2016) and all others are below € 100 million. Regarding the relative size of the capital add-on, the variation is hence between 1% and 83% in 2017 (between 2% and 85% in 2016).

Considering these figures it may be concluded that even if the capital add-ons are not used often, when used they have indeed a material impact on the SCR of some of the entities.

In the years to come EIOPA will continue to analyse the development on the use of capital add-ons to monitor whether more experience will encourage NCAs to make more efficient use of this tool that seem to have been hampered by various difficulties in the recent past. For example, scarce resources, lengthy processes, difficulties in calculating capital add-ons or simply the lack of experience or the fact that capital add-ons have been tagged as a negative perception so far added to the overall low use around Europe.

Figure 1.3 – Distribution of the CAOs as a percentage of total SCR in 2017 for undertakings with imposed capital add-ons



Source: EIOPA

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