REQUEST TO EIOPA FOR INFORMATION RELATED TO DIRECTIVE 2009/138/EC

With this mandate to EIOPA, the Commission seeks information from EIOPA on insurers' asset and liability management.

The mandate follows the Communication from the Commission to the European Parliament and the Council – Implementation of Article 290 of the Treaty on the Functioning of the European Union (the **"290 Communication"**)[1], the Regulation of the European Parliament and of the Council establishing a European Insurance and Occupational Pensions Authority (**the EIOPA Regulation**)[2], the Framework Agreement on Relations between the European Parliament and the European Commission (the **"Framework Agreement"**)[3] and the inter-institutional agreement on better law-making[4].

The Commission will review components of the Solvency II Directive by the end of 2020. This review will notably take into account the annual reports provided by EIOPA on the long-term guarantee measures, as well as the potential opinion to be adopted by EIOPA by the end of 2020. In addition to these annual reports, EIOPA is requested to provide specific information that the Commission has identified as relevant for this review.

This information shall be delivered by 16 December 2019.

1. Context

1.1 Scope

The Solvency II Directive sets out two review clauses for 2020, one on the standard formula for capital requirements and one on the long-term guarantees measures. This review will be carried out well ahead of the end of the transitional measures, and therefore will be an opportunity to assess whether the regime continues to be suitable for the insurance market, or needs some improvements.

These review clauses spell out specific objectives related to the availability of long-term guarantees in insurance products, the behaviour of insurance undertakings as long-term investors and, more generally, financial stability.

The behaviour of insurance undertakings as long-term investors is of particular interest in the context of the Commission's objective to build a Capital Markets Union that unlocks funding for Europe's growth. This objective was confirmed by several respondents to the 2015 call for evidence on the regulatory framework on financial services, as well as the final 2018 report of the high-level expert group on sustainable finance.

The availability of long-term insurance products is a key issue for the EU market, in particular given the increasing need for savings for retirement. Subject to an agreement between co-legislators, insurance undertakings - among other eligible providers – should be enabled to offer Pan European Personal Pension Products (PEPP). It will be important to ensure that the prudential framework for insurers is adapted to such liabilities.

Therefore, Solvency II should appropriately address risks related to the nature of the insurance business, while avoiding undue constraints to insurers' investments fostering long-term growth. It should be assessed if the assumptions for the valuation of technical provisions and the risk measure underlying the calculation of capital requirements is still appropriate. This is to ensure that Solvency II reflects appropriately insurance and reinsurance undertakings asset-liability management.

[1] Communication of 9.12.2009. COM(2009) 673 final.
[2] Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), OJ L 331, 15.12.2010, p. 48–83.
[3] The Framework Agreement on relations between the European Parliament and the European
[4] Inter-institutional agreement between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making, OJ L 123, 12.5.2016, p.1.

The 2020 review of the Solvency II Directive will be the appropriate occasion to assess these issues. Therefore, it is necessary to gather in-depth evidence in advance.

In 2016 and 2017, EIOPA submitted its first two annual reports on the long-term guarantees measures, in accordance with Article 77f of the Solvency II Directive. These reports already include detailed data and analysis on the impact of the existing measures, as well as some information on the impact of these measures on insurers' investments and on the availability of insurance products. These annual reports will be very useful to assess the continuous appropriateness of the existing measures.

In addition to the information already provided in EIOPA's annual reports, the Commission identified the areas listed in section 3 of this call for information, for which investigation should help assessing the appropriateness of the current framework by 2020.

In parallel, the Commission will assess the sustainability of insurers' investments and commission a study on the drivers of insurers' investments in equity, which should shed further light on the impact of the prudential requirements on insurers' asset allocation.

1.2 Principles that EIOPA should take into account

In providing the requested information, EIOPA is invited to take account of the following principles:

- It should respect the requirements of the EIOPA Regulation.
- The report should contain sufficient and detailed explanations of the assessment.
- EIOPA should provide comprehensive information on the subject matters described below.
- EIOPA is not invited to formulate proposals for amendments of the Solvency II Directive at this point in time.
- EIOPA should address to the Commission any question it might have concerning the clarification of the text of the legislative act underlying the Solvency II framework, which it should consider of relevance to the gathering of the requested information.

2. Procedure

The Commission requests information from EIOPA in view of the preparation of the review of Directive 2009/138/EC.

The mandate takes into account the EIOPA Regulation, the 290 Communication and the Framework Agreement.

The Commission reserves the right to revise and/or supplement this formal mandate. The information received on the basis of this mandate will not prejudge the Commission's final decision in any way.

3. EIOPA is invited to provide the following information:

3.1. Information on insurance liabilities

The Solvency II framework is designed to ensure sufficient policyholder protection; in particular, to ensure that insurers fulfil their commitments.

EIOPA's annual reports on long-term guarantee measures shall include information on the availability of long-term guarantee products. In addition, information on the actual and potential liquidity of these liabilities will be necessary to assess whether the Solvency II framework appropriately addresses the related risks.

EIOPA is asked to provide detailed information on the liquidity of insurance undertakings' liabilities, taking into account at least the following:

- Contractual options to (partially) redeem those liabilities before maturity;
- The related contractual penalties;
- The related tax incentives;

- The coverage of biometrical risks;
- Their average duration in practice.

This information should be provided at a sufficient level of granularity, and as a minimum it should be broken down by different types of products. In addition, regional diversification should be reported on where relevant divergence can be observed.

3.2. Information on asset management of insurers

The risk profile of the different investments available on capital markets depends in particular on the holding period of the investor, and on its ability to decide the timing of buying and selling.

EIOPA is asked to provide information on the period over which the different types of investments are effectively held by insurance undertakings.

The information should be compared to the maturity and duration of the investments, where relevant.

The information should also be compared to the liquidity of the liabilities.

3.3. Information on long-term guarantee measures

EIOPA's annual reports on the long-term guarantee measures include detailed information on the impact of these measures. Additional information will be necessary to assess the continuing relevance of these adjustments in their current form.

With regards to the matching adjustments, EIOPA is asked to provide the following information on the corresponding portfolios:

- The breakdown of issuers, between sovereigns, special purpose vehicles and other corporates;
- Where possible, the look-through to the underlying investments;
- The types and volume of derivatives instrument used;
- The external and, where available, internal credit quality assessment;
- The actual yield obtained by insurers on their investments.

The information should be broken down to different regions, where relevant divergence can be observed.

With regards to the volatility adjustment, EIOPA is asked to provide the following information:

- Information per currency and per country on the type and credit quality of the assets included in the reference portfolio used to calculate the volatility adjustment, covering the type of issuer, the type of instruments and the external credit assessment;
- The actual yield obtained by insurers on their investments;
- The potential effect of this measure on the Solvency Capital Requirement in various economic environments, and in particular the impact of EIOPA's opinion[5] related to this measure.

3.4. Information on the market valuation of insurance liabilities

EIOPA is asked to collect information on the actual transfer of insurance liabilities between insurance and reinsurance undertakings.

In particular, EIOPA is asked to compare the transfer values with the valuation of the transferred liabilities and assets, if any, under the Solvency II framework.

[5] EIOPA-BoS-17/366 (https://eiopa.europa.eu/Publications/Opinions/2017-12-20%20EIOPA-BoS-17-366_Internal_model_DVA_Opinion.pdf)