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Online survey on the integration of sustainability risks and sustainability factors in the delegated acts under the Insurance Distribution Directive and the Solvency II Directive

Fields marked with * are mandatory.

Introduction

*Which part of the questionnaire would you like to answer?

- ○ IDD only
- ○ SII only
- ◉ Both

EIOPA invites all the interested stakeholder to fill in an online survey for the Call for Advice from the European Commission on potential amendment to the delegated acts under the Insurance Distribution Directive[1] (IDD) and the Solvency II Directive[2] (SII) with regard to the integration of sustainability risks and sustainability factors.

On 24 May 2018, the European Commission adopted a package of measures on sustainable finance. The package included proposals aimed at establishing a unified EU classification system of sustainable economic activities ('taxonomy'); improving disclosure relating to sustainable investments and sustainability risks; creating a new category of benchmarks which will help investors compare the carbon footprint of their investments.

On 24 July 2018, the European Commission has requested the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA) to provide technical advice supplementing the initial package of proposals and to advise the Commission on potential amendments to, or introduction of, delegated acts under, amongst others, the IDD and the SII Directive with regard to the integration of sustainability risks and sustainability factors.[3]

In view of the novelty of this topic, EIOPA would like to involve market participants and stakeholders at an early stage seeking their input **to build up a suitable "evidence base"** for the thorough development of robust policy recommendations, which will be consulted on at a later stage.

Therefore, EIOPA kindly invites market participants and stakeholders to participate in this survey and to comment on the questions raised.

Comments are most helpful if they:
• respond to the question stated, where applicable; and
• contain a clear rationale.

You are invited to complete the survey by 4 October 2018, 12:00.

Given that EIOPA is also in the process of carrying out other public consultations and data gathering exercises with market participants, EIOPA is very appreciative of any initial input that stakeholders are able to provide by this date on a "best effort" basis.

In case of questions, please contact SustainableFinance@eiopa.europa.eu

Publication of responses

Contributions received will be published on EIOPA's public website unless you request otherwise in the respective field in the template for comments.

Please note that EIOPA is subject to Regulation (EC) No 1049/2001 regarding public access to documents and EIOPA's rules on public access to documents.

Contributions will be made available at the end of the public consultation period.

Data protection

Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published. They will only be used to request clarifications if necessary on the information supplied.

EIOPA, as a European Authority, will process any personal data in line with Regulation (EC) No 45/2001 on the protection of the individuals with regards to the processing of personal data by the Community institutions and bodies and on the free movement of such data. More information on data protection can be found at https://eiopa.europa.eu/ under the heading 'Legal notice'.

How does EIOPA understand sustainability in the context of the call for advice?

The call for advice refers to "sustainability risks and sustainability factors", in respect of the investment decision and advisory processes.

What is meant by "sustainability" and "sustainability risks"?

The Commission proposal "on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341" defines, in Article 2(o) "sustainable investments":

'sustainable investments' mean any of the following or a combination of any of the following:

(i) investments in an economic activity that contributes to an environmental objective, including an environmentally sustainable investment as defined in Article 2 of [PO: Please insert reference to Regulation on the establishment of a framework to facilitate sustainable investment];
(ii) investments in an economic activity that contributes to a social objective, and in particular an investment

that contributes to tackling inequality, an investment fostering social cohesion, social integration and labour relations, or an investment in human capital or economically or socially disadvantaged communities;
(iii) investments in companies following good governance practices, and in particular companies with sound management structures, employee relations, remuneration of relevant staff and tax compliance.

The definition relates to the proposal on "the establishment of a framework to facilitate sustainable investment", i.e. the taxonomy. Its Article 2(a) defines an "environmentally sustainable investment" as *"an investment that funds one or several economic activities that qualify under this Regulation as environmentally sustainable".* Please note that further work at the European Commission level on the taxonomy is on-going.

It is also useful to refer to Recital 58 of Directive (EU) 2016/2341 (the "IORP II" Directive), which itself refers to the United Nations-supported Principles for Responsible Investment to define environmental, social and governance factors.

The impact assessment of the Commission legislative proposals of 24th May operationalises the concept of sustainability by referring to the so-called ESG factors. They write:

Although there is no definitive list of which issues or factors are covered by the terms "ESG", they are - according to UNEP Inquiry and the PRI, broadly defined as follows:
(i) Environmental (E) issues relate to the quality and functioning of the natural environment and natural systems;
(ii) Social (S) issues relate to the rights, well-being and interests of people and communities; and
(iii) Governance (G) issues relate to the governance of companies and other investee entities.

For the purpose of this online survey, "ESG investment risks" should be understood as the risks relating to ESG factors and that would materialise in the assets undertakings are holding.

Please also refer to the final report from the Financial Stability Board "Task force on climate-related financial disclosures", which divides climate-related risks into *"two major categories:*
(1) risks related to the transition to a lower carbon economy and;
(2) risks related to the physical impacts of climate change".

[1] Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution
[2] Directive 2009/138/EC of 25 November 2009 of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1)
[3] https://ec.europa.eu/info/sites/info/files/letter-eiopa-esma-24072018_en.pdf
[4] https://ec.europa.eu/info/law/better-regulation/initiative/1185/publication/238004/attachment/090166e5baea374d_en
[5] https://ec.europa.eu/info/law/better-regulation/initiative/1185/publication/238025/attachment/090166e5baea4e23_en
[6] http://ec.europa.eu/transparency/regdoc/rep/10102/2018/EN/SWD-2018-264-F1-EN-MAIN-PART-1.PDF
[7] https://www.fsb-tcfd.org/wp-content/uploads/2017/06/FINAL-TCFD-Report-062817.pdf

Remarks on completing the questionnaire

Choice of internet browsers
Please use preferably Firefox or Chrome for best speed of the online questionnaire whilst ensuring use of the latest version of the browser.

Saving a draft questionnaire
After you start filling in responses to the questionnaire there is a facility to save your answers.
HOWEVER, PLEASE NOTE THAT THE USE OF THE ONLINE SAVING FUNCTIONALITY IS AT THE USER'S OWN RISK.

As a result, it is strongly recommended to complete the online questionnaire in one go (i.e. all at once).

Should you still proceed with saving your answers, the online tool will immediately generate and provide you with a new link from which you will be able to access your saved answers.

It is also recommended that you select the "Send this Link as Email" icon to send a copy of the weblink to your email - please take care of typing in your email address correctly. This procedure does not, however, guarantee that your answers will be successfully saved.

Uploading document(s)
In the last section of the questionnaire, you can also share additional material by clicking on "Select file to upload". Several documents (e.g. Word, Excel, Pdf) can be uploaded. However, note that each document / file is limited to 1MB or less in size.

Printing the completed questionnaire
You will have the possibility to print a pdf version of the final responses to the questionnaire after submitting it by clicking on "Download PDF".
You will automatically receive an email with the pdf file. Do not forget to check your junk / spam mailbox.

Contact details

*Name of your organisation

AMICE aisbl

*Your name

Helen Sheppard

*Email

helen.sheppard@amice-eu.org

*Your member state

- Austria
- Belgium
- Bulgaria

- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia
- Liechenstein
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Norway
- Other
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom

Insurance Distribution Directive

Product Oversight and Governance

1. Should sustainability considerations be included in the target market assessment of all life insurance products, or only of insurance-based investment products? Please provide reasons for your answer

Insurance is a long-term business and even more so for mutual and cooperative insurers which do not have the short-term demands of investment returns for their shareholders. Sustainability is therefore considered in every aspect of the business: without this consideration, a mutual insurer would not be successful. There is no reason or need to add any legal obligations in this area.
Furthermore, it is premature to introduce further changes in IDD since not all Member States have implemented IDD and companies are still adapting to the new requirements.

2. Should sustainability considerations be taken into account in relation to the target market assessment of non-life insurance products? Please provide reasons for your answer

Insurance is a long-term business and even more so for mutual and cooperative insurers which do not have the short-term demands of investment returns for their shareholders. Sustainability is therefore considered in every aspect of the business: without this consideration, a mutual insurer would not be successful. There is no reason or need to add any legal obligations in this area.

3. Should the assessment of sustainability considerations be mandatory in the target market assessment of the product? If so, please explain why you consider it important

No, see above. Furthermore, it cannot be assumed that all policyholders would have sustainability preferences. Thus, there should be flexibility for insurers. Insurers should be given the possibility to identify a target market for customers who might not have any ESG preferences (and vice versa).

4. How should sustainability considerations be included in the target market assessment?

5. Do sustainability considerations play a role in other aspects of product oversight and governance requirements such as product testing and product monitoring and review? Please explain your answer

Conflicts of Interest

6. What types of conflicts of interest might arise from taking into account sustainability considerations in the course of providing insurance distribution activities? Please provide specific examples

7. Under which circumstances might these conflicts of interest cause damage to the interests of customers? Please provide specific examples

8. Which specific steps could be taken to identify, prevent, manage and disclose conflicts of interest arising from taking into account sustainability considerations? Please provide examples

9. How do you see sustainability considerations impacting other aspects of conflicts of interest regulation in the IDD, such as the conflicts of interest policy (Article 4, DR), procedures and measures under the conflicts of interest policy (Article 5, DR), disclosure (Article 6, DR) and review and record-keeping (Article 7, DR)?

Solvency II Directive

General

1. What do you understand by ESG factors and is this consistent with the definitions provided in the introduction to this survey?

AMICE agrees with the generally accepted definition of the ESG terms as stated in the introduction to the survey. However, these definitions should not be fixed in stone as the notion of sustainability is and should be broad and flexible in order to take account of environmental, social and societal changes. Furthermore, there should not be a focus on one of the E, S or G factors only.

2. Do you think ESG risks in investment decision should be another element to consider, without giving this element a greater importance than the others, or could the integration of ESG risks lead to non-sustainable investments being disregarded?

ESG risks should indeed be considered in investment decisions but not to the detriment of other criteria (ALM, duration matching, liquidity, etc.) which an insurer uses to ensure it invests in the best interests of its policyholders. ESG risks should be considered by the insurer in line with its strategic investment policy, according to its specific risk profile, risk appetite and risk policies.
Incorporating ESG measurements into investment decisions should not be detrimental to non-sustainable investments which are valid and viable.

3. What are the skills necessary to identify, manage and monitor ESG investment risks? How could fit and proper requirements contribute to a better consideration of ESG risks?

Apart from the expected risk management or asset management qualifications, an open, forward-looking approach, rather than a legally defined or delimited skill-set, is necessary to identify, manage and monitor ESG investment risks. Access to relevant expertise and data should be available and affordable for all sizes of insurer.
Fit and proper requirements should not be reinforced in order to contribute to a better consideration of ESG risks but diversity could be encouraged in order to promote discussion of sustainability issues.

4. Do you think that the consideration of ESG factors affecting investment decision is relevant for both life insurance undertakings and other type of undertakings (non-life insurance undertakings and reinsurance undertakings)? Why?

Consideration of ESG factors affecting investment decisions is relevant for all insurance undertakings but these decisions are part of an individual insurer’s investment strategy and should not be imposed. It is in an insurer’s own long-term interest to ensure that its investments are sustainable while also ensuring a sound return for policyholders. For a mutual/cooperative insurer, this motivation is reinforced by the fact that the policyholders are also the ‘owners’.

Organisational requirements

5. How should ESG factors be considered by undertakings in their investment decision process? What are the current practices?

ESG factors should indeed be considered in investment decision-making but not to the detriment of other criteria (yield, ALM, duration matching, liquidity, etc.) which an insurer uses to ensure it invests in the best interests of its policyholders.
Insurers must be able to define their own governance and subsequent processes on investment issues, including the consideration of ESG factors, as this is an integral part of an insurer’s strategy and not in a supervisor’s remit.

6. What should be the role of the administrative, management or supervisory body (AMSB) in relation to ESG investment risks?

The role of the AMSB should be exactly the same as in relation to every risk identified, measured, monitored, managed, controlled and reported by the undertaking.

7. How could remuneration rules contribute to a better consideration of ESG risks?

8. What should be the tasks of each of the key functions (eg. risk-management, compliance, internal audit, and actuarial) in relation to ESG investment risks? And how should cooperation between them be articulated to ensure effective integration of ESG investment risks?

ESG investment risks should be considered in the same way as any other similar relevant risk by the key functions. Cooperation between them should be the same as for any risk. No new obligations are necessary

9. What internal policies and procedures are necessary to ensure an effective integration of sustainability risk in the decision process?

Internal policies and procedures are necessary to ensure an effective integration of every risk to which an undertaking is exposed including ESG risk. These are already in place and no new obligations should be introduced.

10. What type of conflicts of interest might arise from taking into account sustainability considerations in the investment decision process? Please provide specific examples

11. How would conflicts of interest be identified and resolved?

Insurers already have processes to identify and resolve conflicts of interest, whatever the basis of the conflict.

12. How can the internal control system (including monitoring and oversight) contribute to the effective integration of ESG risks in the investment decision process?

The insurer's internal control system already contributes to the effective integration of all relevant risks in the investment decision process, including ESG risks.

13. Are there other elements of the undertakings' system of governance, which could contribute to the effective integration of ESG risks in the investment decision process?

A mutual/cooperative insurer's specific governance system which includes the member-policyholder/owner-customer ensures that the sustainability of the insurance company and thus of its investment decisions is central. This contributes to the effective integration of ESG risks in the investment decision process.

Operating conditions and investment rules

14. How are ESG risks currently considered in the investment strategies of insurance undertakings? Please in particular elaborate on whether the prudent person principle allows for the adequate integration of ESG investment risks

Each insurance company has its own investment strategy which takes into consideration the risks for its business. ESG risks may be considered in the same way as other risks but it is a matter of individual company need and choice.
The prudent person principle allows for the adequate integration of ESG investment risks as it compels insurers to properly identify, measure, monitor, manage, control and report risk, including relevant ESG investment risks, since these are integral to the long-term nature of the business.

15. How do undertakings perform the due diligence in the selection and monitoring of investments in relation to ESG risks?

Insurers perform the due diligence in the selection and monitoring of investments in relation to every risk to which it is exposed. This is no different for ESG risks.

Risk management

16. How should ESG investment risks be included in the risk management strategy? Should there be specific risk tolerance limits, specific written policies and specific internal reporting procedures?

ESG investment risks should be included in the risk management strategy according to the risk profile of the undertaking. Solvency II is risk-based and should therefore cover every risk, implicitly including ESG risk in the same way as any other risk There is no need for a specific requirement in Solvency II regarding ESG investments risks.

17. How are ESG investment risks measured and quantified by insurance undertakings? With which data? To what extent does the risk management approach for ESG investment risks differ from other types of risks? Do you currently use scenario analysis as a tool to measure and quantify these risks? If not, why?

18. How should the assessment of the undertaking's overall solvency needs consider ESG investment risks? Are you disclosing these in your ORSA?

19. How are sustainability risks in general (e.g. that would materialise in the liability side of the balance-sheet and including exposure to climate risks) managed and mitigated by insurance and reinsurance undertakings?

Target market assessment

20. To which extent should the underwriting policy requirements be modified to take account of ESG investment risks and reflect how ESG preferences could be included in the target market assessment?

Solvency II does not provide specific requirements on underwriting policy and which risks should be considered in this policy. No additional requirements should be added.

Other

21. Please provide any other comment on the integration of ESG risks and factor in the investment decision process or on sustainability in general that relate to Solvency II.

Common Areas

1. Do you find there are common areas between Solvency II and IDD in relation to ESG investment risks that should be given specific attention? To the extent possible, please provide legal references to relevant articles.

Before introducing any changes in IDD/Solvency II as regards ESG investment risks, the EU taxonomy work should be finalised for all ESG factors, not just the environmental.

2. Do you find there are common areas between the Solvency II Directive other EU financial services directives in relation to ESG investment risks that should be given specific attention? To the extent possible, please provide legal references to relevant articles.

Additional material

Please upload your file should you wish to send additional material or comments

The maximum file size is 1 MB

Contact

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