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EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
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Opinion

Title **DG MARKT – Impact Assessment on the Solvency II Delegated Acts**

(resubmitted version of 8 May 2014)*

(A) Context

The Solvency II Directive (2009/138/EC) provided a framework for the regulation and supervision of insurance and reinsurance undertakings in the EU, replaced 14 existing insurance directives and introduced economic risk-based solvency requirements across all EU Member States. Before its entry into force, the economic and financial crisis revealed that further amendments would be necessary to introduce transitional and countercyclical measures to preserve the financial stability of the entire insurance sector. These changes have been introduced by the so called Omnibus II Directive, whose adoption by the Legislator is imminent. In the meantime, the application date for Solvency II had to be postponed twice and was finally set to January 2016. While much of the topics originally designated for the delegated acts were included in the Omnibus II Directive, this impact assessment discusses how to implement some of the remaining measures, notably as regards capital requirements and other measures relating to long term investments, the composition of insurers' own funds requirements, requirements for valuation of assets and liabilities, and reporting and disclosure.

(B) Overall opinion: POSITIVE

The report has been improved to some extent in line with the Board's recommendations, but needs further work on a number of aspects. First, the report should better explain the relative contribution this initiative can make in fostering the role of insurers as long-term investors and in generating beneficial impacts for policyholders. Second, it should further substantiate the problem definition, including the need for and added value of regulating remuneration policy, especially as there does not seem to be any evidence of the "hunt for yield" behaviour in the insurance sector. Third, the report should clarify how it will be ensured that EIOPA limits the envisaged quarterly reporting requirements to the minimum necessary and that burdensome ad-hoc requests of national supervisors are prevented. Finally, it should provide more insight into the assessment assumptions and cost estimates, for example, as regards the overall costs of this initiative (currently ranging between one to a few billion euros).

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

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(C) Main recommendations for improvements

(1) Better explain the relative importance of the initiative. While having clarified the scope of the delegated acts, the report should ensure a coherent explanation throughout the report of the relative contribution this initiative can make in fostering the role of insurers as long-term investors. In the absence of studies addressing the changes in insurers' investment behaviour and the impact on the wider economy, the report should clarify under which conditions the removal of the identified excessively prudent capital requirements could be expected to change investment decisions and have beneficial impacts for policyholders (i.e. increased protection, wider product offer and lower prices). It should also indicate how these effects would be monitored.

(2) Further strengthen the problem definition. Although the report better explains the policy context of the identified issues and acknowledges the lack of additional evidence, it should still clarify on what basis it has been concluded that: (i) insurers might replace existing tier 1 own funds with tiers 2 or 3 (to the extent allowed by the Solvency II Directive) and that this would increase the likelihood of firms failing; (ii) insurers might start "hunting for yield", despite that investment strategies of the banking and insurance sectors substantially differ; (iii) supervisory authorities with quarterly information were in a much better position to identify insurers in difficulty (i.e. concretely which information was most needed and to what extent it prevented ad-hoc additional requests by national supervisors, without creating disproportionate reporting burden).

(3) Further improve the presentation of the options. As regards the options on remuneration policy and reporting requirements, the report still needs to indicate both the preferences of insurers (taking account of business-related differences) and the monitoring/review indicators. In addition, it should explain how the preferred option on valuations is expected to be implemented in practice, namely as regards the assessment/audit of the alternative valuation methods. The report should also indicate the rationale of option 2 for own funds (which is not covered by the "shall" empowerment of the basic act and does not seem to have been tested). Finally, it should still clarify how the delegated acts will ensure that the envisaged quarterly reporting requirement will be limited by EIOPA to the minimum necessary.

(4) Clarify the assumptions of the impact analysis. While having clarified the availability and relevance of existing studies and stakeholder views, the report should further elaborate on the estimated overall costs of the initiative, currently ranging from one to a few billion euros (i.e. which costs and measures this estimate includes). More specifically, it should indicate the magnitude of the ongoing/running costs of the envisaged quarterly reporting (i.e. besides the one-off costs estimated in the Deloitte study) and address the concerns of insurers that generating the limited set of quantitative data might be as burdensome as generating the full set (on a quarterly basis). In this context, and based on the extensive consultation process, the report should indicate the likely usage of mitigating measures for "smaller" insurers (in respect of size, nature and complexity of the risk in their business) by Member States. Finally, the report should make a greater effort to explain why the envisaged remuneration policy is expected to be beneficial for all insurers as well as interested parties, as compared to the baseline scenario.

(D) Procedure and presentation
The report should explain the rationale of the relative scores in Figure 17 (namely as regards option 3 vis-à-vis option 2).

(E) IAB scrutiny process	
Reference number	2010/MARKT/028
External expertise used	No
Date of IAB meeting	Written procedure. An earlier version of this report was submitted to the IAB in March 2014, for which the Board issued an opinion on 11 April 2014.