EUROPEAN COMMISSION
Directorate-General for Financial Stability, Financial Services and Capital Markets Union

Director General

Brussels, 28. 08. 2018
FISMA/D4/MG/lh/Ares(2018)5470533

Gabriel Bernardino
EIOPA Chairman
Westhafenplatz 1
DE 60327 Frankfurt am Main
Germany
Per email:
gabriel.bernardino@eiopa.europa.eu

Subject: Request to EIOPA for an opinion on sustainability within Solvency II

Dear Mr Bernardino,

On 8 March 2018, the Commission adopted its Action Plan on sustainable finance[1] in which it announced several actions to incorporate sustainable finance in the heart of the financial system.

Further to this Action Plan, the Commission adopted, on 24 May, a package of legislative measures on sustainable finance. The Commission has already sought technical advice to EIOPA and ESMA on the delegated acts that would supplement this package amending, or, where necessary, introducing level 2 measures of, inter alia, Directive 2009/138/EC (hereafter, Solvency II Directive) with the aim of incorporating sustainability risks, i.e. environmental, social and governance risks by financial market participants subject to those rules.

In Action 8 of the Action Plan, the Commission also announced it would request EIOPA's opinion on sustainability within Solvency II, in particular those aspects that relate to climate change mitigation.

With this letter, I would like to follow up on that action and I invite EIOPA to provide this opinion **by 30 September 2019** in order to allow the Commission to consider any follow-up actions including in the context of the review of Solvency II. Given the close links of the various pending initiatives, the Commission invites EIOPA to closely liaise with and consult other stakeholders in the preparation of the opinion with a view to ensure consistency across sectors.

I believe that close cooperation between EIOPA and the Commission on this opinion should be maintained and I would appreciate Commission staff to join the EIOPA working groups preparing the opinion. I am confident that such cooperation will contribute to the delivering of a successful opinion.

[1] COM(2018) 97 final.

In the interest of transparency, the Commission will publish this request for opinion on the DG Financial Stability, Financial Services and Capital Markets Union website once it has been sent.

Yours sincerely,

p.p.

Olivier Guersent

REQUEST TO EIOPA FOR AN OPINION ON SUSTAINABILITY WITHIN SOLVENCY II

With this mandate to EIOPA, the Commission seeks EIOPA's opinion on Solvency II and sustainability under Art. 34 (1) of Regulation (EU) 1094/2010. This opinion shall be delivered by **30 September 2019**.

1. Introduction

The Commission hereby seeks EIOPA's opinion on Solvency II and sustainability, in particular those aspects relating to climate change mitigation (item 8 of the Action Plan: Financing Sustainable Growth published on 8 March 2018[2]). In rendering its opinion, EIOPA should provide evidence and justified examples while not suggesting specific legislative changes. Nevertheless, the projects initiated by the recently adopted EIOPA Sustainable Finance Action Plan and data collected in the course of that work could well contribute to delivering this opinion. Furthermore, EIOPA can benefit from its involvement in the Commission work on sustainable finance, in particular the ongoing work on a taxonomy of which economic activities are considered environmentally sustainable. EIOPA can also build on its previous work e.g. in the area of investments.[3]

1.1 Context

Sustainability is at the heart of the European project. Following the adoption of the 2016 Paris Agreement on climate change and the United Nations 2030 Agenda for Sustainable Development, the Commission adopted the Action Plan: 'Financing Sustainable Growth'.

On 24 May 2018 the Commission adopted several legislative proposals on sustainable finance. The proposals concern the creation of a taxonomy for sustainable economic activities, a legislative framework for sustainable benchmarks and ESG-related disclosure requirements for financial market participants including institutional investors.

On 24 July, the Commission submitted a request to EIOPA and ESMA for technical advice on the integration of sustainability risks and sustainability factors specifically in areas of organisational requirements, operating conditions, risk management and target market assessment.[4] Building on the advice, the Commission will clarify so-called fiduciary duties and increase transparency in the field of sustainability risks and sustainable investment opportunities with the aim of

- reorienting capital flows towards sustainable investments in order to achieve sustainable and inclusive growth;
- assessing and managing relevant financial risks stemming from climate change, resource depletion, environmental degradation and social issues; and
- fostering transparency and long-termism in financial and economic activity.

The Action Plan also sets out the Commission's intention to analyse the impact of existing prudential rules on insurers' sustainable investments. For this purpose, the Commission requests EIOPA to provide its opinion on sustainability within Solvency II as described in more detail in section 3 of this document.

---

[2] COM(2018) 97 final

[3] "Investment behaviour report" published by EIOPA on 16 November 2017 (EIOPA-BoS-17/230)

[4] https://ec.europa.eu/info/sites/info/files/letter-eiopa-esma-24072018_en.pdf

The opinion will be taken into account by the Commission in the preparation of the report on the Solvency II Directive due by 1 January 2021[5]. At a later stage, the Commission will send a separate Call for Advice on other aspects that will inform the review of the Solvency II Directive, notably elements concerning insurers' long-term guarantees.

EIOPA should bear in mind the ongoing discussions on the prudential framework for banks, and liaise with stakeholders in this field, in particular the EBA. As noted in the Action Plan on Sustainable Finance, the Commission will explore the feasibility of the inclusion of risks associated with climate and other environmental factors in banks' risk management policies and the potential calibration of capital requirements of banks as part of the Capital Requirement Regulation and Directive. In addition, the European Parliament proposed to mandate EBA to report on the prudential treatment of assets linked to activities associated substantially with environmental objectives. It was suggested that EBA should assess whether dedicated capital charges for assets linked to activities associated substantially with environmental and / or social objectives would be justified from a prudential perspective.[6]

1.2 Principles that EIOPA should take into account

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

- The Commission is not seeking suggestions for legislative texts. EIOPA's Opinion should not take the form of a legal text nor contain proposals for specific legislative changes.
- EIOPA should liaise with and consult with relevant actors, such as EBA, and monitor the ongoing work in the European Parliament on the Capital Requirements Regulation referred to above, to ensure consistency across sectors.
- EIOPA should bear in mind the need to ensure the proper functioning of the internal market and to improve the conditions of its functioning, in particular with regard to the financial markets, and a high level of investor protection.
- EIOPA should take into account proportionality in its Opinion.
- EIOPA should ensure coherence within the wider regulatory framework of the Union.
- If deemed necessary, EIOPA may consult stakeholders in an open and transparent manner. If consultations take place, EIOPA should provide a feedback statement on the consultation justifying its choices vis-à-vis the main arguments raised during the consultation.
- To meet the objectives of this mandate, it is important that the presentation of the Opinion makes maximum use of the qualitative evidence and data gathered and enables all stakeholders to understand the overall impact of the Opinion.
- The Opinion should contain sufficient and detailed explanations for the assessment done, and be presented in an easily understandable language respecting current legal terminology used at Union level.
- EIOPA should address to the Commission any question it might have concerning the clarification of the applicable rules in question, which it should consider of relevance.

2 Procedure

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.

---

[5] Art. 77f (3) of Directive 2009/138/EC

The European Parliament and the Council will be informed about this call for an Opinion.

3. Scope of the opinion sought

The Commission calls on EIOPA to provide an opinion on Solvency II and sustainability, with a particular focus on climate change mitigation. The Commission therefore has the following specific questions and notes that for the purpose of this Opinion, sustainability factors should encompass both long-term and short-term factors.

3.1 Impact of prudential rules on insurers' sustainable investments

EIOPA is invited to provide an opinion on the extent to which Solvency II provisions impact insurers' sustainable investments, with particular focus on climate change mitigation, and to collect good practices of insurance undertakings concerning investments and asset liability management with a view to gaining insight into how insurers incorporate sustainability into their investment practice.

EIOPA's Opinion should elaborate on Solvency II's inherent incentives and/or disincentives for sustainable investments, including but not limited to unrated bonds and loans, unlisted equity and real estate. In the event that EIOPA determines that the current framework contains disincentives, EIOPA is also invited to provide in its Opinion criteria to identify sustainable investments that could benefit from a more favourable treatment.

Where relevant, the opinion should also point out where the calibration of the standard parameters in the market risk module of the standard formula, rules relating to internal model design and calibration and the rules on valuation of assets as well as their application in practice, do not sufficiently account for sustainability factors, with particular regard to the climate risk that insurers are exposed to via their investments and how this should be addressed. Where EIOPA concludes that climate risk is not sufficiently taken into account in one or several of the above areas, it is asked to provide estimates of the quantitative impact if climate risk were taken into account.

3.2 Considerations of sustainability factors with particular regard to climate in insurance and reinsurance undertakings' underwriting practice

The Pillar 1 and Pillar 2 frameworks of Solvency II both set incentives for the underwriting practice of insurance and reinsurance undertakings. EIOPA is asked to provide an Opinion on the extent to which current practices in product design and in product pricing by insurance and reinsurance undertakings account for sustainability factors with particular regard to the climate risk the insurance obligations are exposed to, and the extent to which these practices are incentivised by Solvency II.

3.3 Miscellaneous

Beyond the aforementioned areas, EIOPA is invited to elaborate in its opinion on following areas:

- The extent to which the calibration of the standard parameters for the natural catastrophe risk module of the standard formula captures climate related developments;
- The extent to which rules relating to internal model design and calibration, and their application in practice, account for sustainability factors, with particular regard to the climate risk that existing insurance and reinsurance obligations are exposed to;

- The extent to which rules relating to cash flow projections for the calculation of the best estimate, in particular regarding loss estimates, and their application in practice, capture sustainability and climate related developments.

With respect to the areas listed above, EIOPA is invited to collect good practices of insurance and reinsurance undertakings concerning underwriting and provisioning with a view to gain insight in how (re)insurers incorporate sustainability in these areas.