

Comments Template on EIOPA-CP-18-003 Discussion Paper on Resolution funding and national IGSs		Deadline 26/10/2018 23:59 CET
Name of company:	AMICE (Association of Mutual Insurers and Insurance Cooperatives in Europe)	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. Please indicate if your comments should be treated as confidential, by deleting the word "Public" in the column to the right and by inserting the word "Confidential".	Public
<p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. <p>Please send the completed template, in Word Format, to CP-18-003@eiopa.europa.eu by 26 October 2018. Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the questions correspond with the questions included in the Discussion Paper.</p>		
Reference	Comment	
General comments	<p>AMICE welcomes the opportunity to provide feedback on EIOPA's discussion paper on resolution funding and national insurance guarantee schemes.</p> <p>AMICE believes that there is no rationale for minimum harmonisation in the field of IGS. Following the extensive enhancements of the insurance regulation regime in recent years, as noted by EIOPA in the discussion paper, "adequate protection of policyholders is at the core of Solvency II". This new system of regulation protects through a system of two capital requirements which ensures the early detection of financial difficulties. The supervisory ladder of intervention in Solvency II allows for supervisory actions while there are still assets in the</p>	

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regulated entity to meet obligations to policyholders. Solvency II also contains provisions for the winding-up of insurers and national insolvency laws to complement these.

Historically, insurers have proved resilient in times of challenge and required little in terms of government support; this is even less likely in the future due to the new environment under Solvency II in Europe.

Insurance failures are very rare and given the general lack of interconnectedness do not affect other insurers or the payment systems, contrary to the systemic impact of failure in the banking sector.

Furthermore, the cases of insurance failures and near misses contained in EIOPA's database are unlikely to be indicative as they are based on experience pre-dating the implementation of Solvency II (from 1999 to 2016). The discussion paper lacks an assessment of the effects of Solvency II on policyholder protection.

Consumer protection needs are different in the insurance sector to the banking sector. The type of issues that bank guarantee schemes address does not exist in the insurance sector. Rules applied to insurance should fully reflect the important differences between the business models and risk profiles of the two industries, taking into account aspects such as long time horizon, illiquidity and contingent liabilities as unique characteristics of insurance, making it a distinctly different business model from that of banking. If a crisis does occur, insurers can typically be wound up in an orderly manner through run-off and/or portfolio transfers, in contrast to the situation with the banking sector.

National insolvency laws already provide sufficient safeguards as regards consumer protection through prudential rules, rules on winding-up and right of priority.

AMICE believes that existing tools and powers should be used before introducing any new

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	<p>regulatory framework on IGS. The introduction of further regulation will fail to solve the most serious challenge, i.e. the lack of or insufficient supervision in the early stages of an insurer's irregular performance. A proper enforcement of Solvency II and high-quality supervision by national competent authorities remain the only ways to ensure a healthy insurance market.</p> <p>Moreover, EIOPA should better acknowledge that there remain different local and cultural approaches to insurance and therefore, there is no case for maximum harmonisation in guarantee schemes.</p> <p>To conclude, we do not believe it is necessary to introduce a minimum degree of harmonisation in the field of IGS since Solvency II already provides a sufficiently robust prudential framework with policyholder protection at its core.</p>	
Q1	<p>The cases of insurance failures and near misses referred to in EIOPA's discussion paper are unlikely to be indicative as they are based on experience pre-dating the implementation of Solvency II (from 1999 to 2016) and are no longer relevant.</p> <p>As noted by EIOPA, "adequate protection of policyholders is at the core of Solvency II". This new system of regulation protects through a system of two capital requirements which ensures the early detection of financial difficulties. The supervisory ladder of intervention in Solvency II allows for supervisory actions while there are still assets in the regulated entity to meet obligations to policyholders. The discussion paper fails to assess the effects of Solvency II on policyholder protection which has been in force for less than three years.</p> <p>AMICE is of the view that a level playing field cannot be created by implementing minimum harmonisation in the field of IGS. There are significant differences between Member States in respect of, e.g. product lines, tax systems and insurance creditor hierarchy in the event of winding up.</p>	

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	AMICE disagrees with the assessment made by EIOPA that there is a major problem with the lack of consumer confidence in the non-life and life insurance market. And if there is, it is probably not dependent on capital levels and lack of IGS but on the market conduct of insurers, e.g. in terms and conditions, claims handling, etc.	
Q2	The costs should be borne by the Member State of the defaulting insurer.	
Q3	<p>Given that there are close links between insolvency regimes, recovery and resolution systems and IGSs, the national insolvency regimes within the EU should be thoroughly analysed before harmonizing national IGSs. The discussion paper provides only a limited overview of the differences in national insolvency regimes and the existing national IGSs.</p> <p>It is also important to assess the combined impact of the various policyholder protection systems before introducing any further changes.</p>	
Q4	<p>Overall, AMICE agrees with the arguments in favour of maintaining the status quo although some considerations are missing.</p> <p>Given the different local and cultural approaches to insurance, the existing national IGSs have been designed to take into account the national specificities in each country. This is another argument for maintaining the status quo which has not been sufficiently considered by EIOPA.</p> <p>The discussion paper does not consider enough the potential high costs associated with the introduction of an IGS.</p> <p>EIOPA also needs to examine the effects of Solvency II on policyholder protection and how these affect the need for changes to the existing regime of national IGSs. A proper enforcement of Solvency II and high-quality supervision by national competent authorities remain the only ways to ensure a healthy insurance market.</p>	
Q5	AMICE believes that some of the arguments in favour of a European network of national IGSs are not relevant:	

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	<ul style="list-style-type: none"> - The existence of national IGSs in some Member States is not a valid argument for introducing an obligation for all Member States to put in place an IGS. As mentioned above, given the different local and cultural approaches to insurance, the existing national IGSs have been designed to take into account the national specificities in each country. - Most of the examples used in the discussion paper refer to motor insurance although EIOPA explicitly notes that schemes covering insurance liabilities under the Motor Insurance Directive are excluded from the scope of the paper. Moreover, these examples are not relevant and the ongoing review of the Motor Insurance Directive will prevent similar cases from occurring in the future. - The level playing field is not a valid argument for introducing a European network of national IGSs. There are significant differences between Member States in terms of product lines, tax systems and insurance creditor hierarchy in the event of winding up which would not be eliminated by harmonising IGSs. 	
Q6	As mentioned above, AMICE believes Solvency II already provides a sufficiently robust prudential framework with policyholder protection at its core and therefore the need for harmonising IGSs is irrelevant. It is premature to introduce new EU rules on IGSs, while the effects of Solvency II on policyholder protection have not been thoroughly examined.	
Q7		
Q8		
Q9	Solvency II already provides a sufficiently robust prudential framework with policyholder protection at its core and therefore the need for harmonising IGSs is irrelevant.	
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Q11		
Q12	Solvency II already provides a sufficiently robust prudential framework with policyholder protection at its core and therefore the need for harmonising IGSs is irrelevant.	
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Q23		

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Q24		
Q25		
Q26		