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FOR MUTUAL BENEFIT

Brussels, 7 December 2018

AMICE welcomes the opportunity to provide comments to the European Commission draft proposals for the changes to the Solvency II Delegated Regulation. We call for changes by the Commission in the following six areas:

1. Entry into force – Article 2

The legal text states that this Regulation should be entering into force on the twentieth day following that of its publication in the Official Journal of the European Union. We would also like to add the Points (51), (60), (61) and (62) to Points (67) and (75) of Article 1 which should apply as from 31 December 2019 only. The amendments to Articles 270, 260(1), 297 and 311 relating to the governance framework of the loss absorbing capacity of deferred taxes require changes in the firm's processes and policies and the involvement of the AMSB to validate and approve all those changes. Insurers should therefore be allowed more time to implement these new provisions.

2. Long-term equity – Article 171a

Points (33) of Article 1

We would like to thank the European Commission for the proposed improvements in the Solvency II risk calibrations and the better reflection of the one-year time horizon genuine residual risk when equity investments are managed with long-term performance objectives and the appropriate management actions to support those objectives are conditionally taken into account. Nevertheless, the incorrect and unduly constraining criteria proposed in Article 171a will obstruct the application of the 22% capital charge and will create an "empty bucket". Please refer to previous AMICE correspondence on the matter.

3. Volume measure – Articles 116, 147

Points (21) & (30) of Article 1

The base for the calculation of exposures for the non-life premium risk in respect of annual contracts should not exceed one year of earned premiums for contracts of annual duration.

The exposure must be based on the exact nature of the risk and in particular must be consistent with the way in which the calibration of risk factors (sigmas) has been established. If the input does not correspond to the way the calibrations have been established, then the calculated risk amount will not be correctly estimated, and in practice here, overestimated. Thus, the premium base must be limited to one year of earned premiums for contracts of annual duration. Indeed, the sigmas already capture the elements of volatility that would be derived from elements of historical trends. Building a reasoning around the notification period in the premium risk calculations creates a discrepancy that overestimates the exposures for countries where notification periods are not nil. For instance, it overestimates the capital charge by 8.3% for countries where and when notification periods equal 1 month and 16.7 % for countries where notification periods equal 2 months. While inducing a wrong estimation of the exposure for premium risk, the notification period also implies an unlevel playing field across countries within Europe.

4. Loss Absorbing Capacity Deferred Taxes – Articles 207, 260(1), 297, 311

Points (51), (60), (61) and (62) of Article 1

Specific reference to Article 23 in the point 51 of Article 1 (paragraph 2d) regarding future management actions should be avoided as it refers to best estimate calculations and not to SCR calculations; reference to Article 236(1) would be more appropriate. Firms should demonstrate, as part of their supervisory review process, how they have dealt with the uncertainties around it. If the evidence provided were not satisfactory, the supervisory authority could always apply a haircut to the expected outcome of the FMA.

Additionally, the proposed amendment to the Delegated Regulation states that new business sales cannot go beyond the business planning horizon, with a maximum horizon of 5 years. This requirement implies that an insurer is no longer in going-concern after 5 years and it is conflicting with Article 101 (2) of the Solvency II Directive.

5. Fire risk sub-module – Article 132

Point (29) of Article 1

Identification largest risk exposures on a net basis

We welcome the introduction of a new paragraph in the Delegated Regulation, however, we do not believe it fully reflects EIOPA's final advice on the matter. EIOPA had recommended in its Final Advice, that the identification of the largest risk exposures within Marine, Fire and Aviation risk sub-modules were altered to be carried out "*net of reinsurance where that reinsurance cover alters the relative ranking of the exposure within the undertaking's portfolio, based on the size of the exposure. For example, facultative covers*."

EIOPA also stated that "*However, it notes that there could be examples of reinsurance programs where the distortion may persist. In these cases, the undertaking shall carry out the identification of the largest exposure within the Marine, Fire and Aviation risk sub-modules on the basis of gross exposures*."

We would also like to point out that in addition to the fact that a number of reinsurance treaties cannot be individualised by risk, it is also not useful to systematically identify the risks net of reinsurance covers (notably facultatives) in the first step of the calculation of the SCR fire submodule. This is not appropriate where the insurer can demonstrate that their reinsurance programs are consistent, do not create a distorted view of the actual risks and are such that the identification of the largest risks gross or net of reinsurance covers (notably facultatives) is not likely to change the overall amount of the capital charge (SCR).

6. Recalibration standard parameters premium and reserve risk

EIOPA applied the same methodology used in 2011 to conduct the recalibration of non-life and NSLT premium and reserve risk; The methodology used by EIOPA in 2011 included the rounding of the factors. In order to achieve consistency in the results, the rounding of the factors to the nearest integer should be applied.

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