

Opinion of the European Insurance and Occupational Pensions Authority (EIOPA) on disclosure of information related to the use of transitional measures in the calculation of technical provisions

Legal basis

1. This opinion is issued under Article 29(1)(a) of Regulation (EU) No 1094/2010 (hereafter the 'Regulation')¹. As established in Article 29(1) of the Regulation, EIOPA shall play an active role in building a common Union supervisory culture and consistent supervisory practices, as well as in ensuring uniform procedures and consistent approaches throughout the Union.
2. Articles 308c and 308d of Directive 2009/138/EC² address the application of the transitional adjustment to the relevant risk-free interest rate term structure and the transitional deduction to technical provisions, also known as transitional measures. Specifically, the third subparagraph of Article 308c(2) and the second subparagraph of Article 308d(2) indicate that the effect of the transitional measures shall decrease linearly at the end of each year from 100% during the year starting from 1 January 2016 to 0% on 1 January 2032 .
3. The application of the referred articles implies that the calculation of the technical provisions at the end of the year should not reflect the reduction of the adjustment related to that year. The reduction should only be made on the first day of the following financial year. However, undertakings might follow a different approach and might calculate the new adjustment on the 31 December of each year, or even quarterly, following accounting methodologies.
4. Article 51 of Directive 2009/138/EC requires insurance and reinsurance undertakings to publicly disclose, on an annual basis, a report on their solvency and financial condition (hereafter the 'SFCR'). The SFCR should

¹ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48)

² Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1)

present a transparent and relevant picture of the undertaking's solvency and financial position and should be up-dated in the event of any major development affecting significantly the relevance of the information disclosed.

5. Also, according to general accepted principles of public disclosure there is an obligation to disclose the nature and the effect of material events arising after the balance-sheet date which are not reflected in the balance-sheet. In this case the information referring to the amounts of technical provisions, Solvency Capital Requirement, Minimum Capital Requirement, basic own funds and eligible own funds considering the use of the transitional measures reflect an event that might materially change immediately on the first day of the following financial year the information to be disclosed.
6. Finally, Chapter XII of Title I of the Commission Delegated Regulation (EU) 2015/35³ on public disclosure requires for each area of the SFCR a separate section where any other material information shall be included. In this section, any major development or material event with material impact in the information to be disclosed occurring between the reference date and the publication date of the SFCR shall be included if the time lag between the occurrence of the event and the date of publication of the report allows.

Context and scope

7. The information disclosed under template S.22.01 as defined in Annex I of Commission Implementing Regulation (EU) 2015/2452⁴ with regard to procedures, formats and templates of the SFCR, reflecting the impact of long-term guarantees and transitional measures should refer to the calculations both without the application of the transitional measures and with the application of the transitional measures. Furthermore, the information of the calculation with the transitional measures should refer to the end of the financial year.
8. From a public disclosure perspective, considering the method and timing of the reduction of the transitional portion applicable to the calculation of technical provisions, the information disclosed under this template might not give a complete view of the undertaking's solvency position, if the

³ Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC 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 12, 17.01.2015, p.1)

⁴ Commission Implementing Regulation (EU) 2015/2452 of 2 December 2015 laying down implementing technical standards with regard to the procedures, formats and templates of the solvency and financial condition report in accordance with Directive 2009/138/EC of the European Parliament and of the Council (OJ L 347, 31.12.2015, p.1285)

impact of the re-calculation of the technical provisions on the first day of the following financial year is not disclosed. Information disclosed should reflect a transparent and fair picture of the undertaking's solvency position.

9. The use of transitional measures is crucial to allow for a smooth transition to a new regime. The transitional measures should aim to avoid market disruption and limit interference with existing products as well as to ensure the availability of insurance products.
10. Considering the importance of public disclosure in the SII framework, in particular regarding the use of transitionals, a re-calculation of technical provisions with a different portion of the transitional leading to a material impact in the solvency and financial position should be considered as an event materially affecting the information to be disclosed.
11. For the reasons stated above, EIOPA considers that in view of complying with the principles of public disclosure and with Chapter XII of Title I of Commission Delegated Regulation (EU) 2015/35, the SFCR, group SFCR or single SFCR should contain the information necessary to reflect the estimated impact of the decrease of the portion of the adjustment performed on the first day of the next financial year in the technical provisions, Minimum Capital Requirement, Solvency Capital Requirement and Eligible own funds to cover the capital requirements.
12. This information is considered relevant only where the recalculation of technical provisions would lead to a material impact in the solvency position of the undertaking in accordance with Article 291 of Commission Delegated Regulation (EU) 2015/35.
13. EIOPA will monitor the developments of the issues addressed in this opinion and, if appropriate, will review the opinion accordingly.
14. This opinion will be published on EIOPA's website.

Done in Frankfurt am Main, 21 December 2016
[signed]

Gabriel Bernardino
EIOPA Chairperson
For the Board of Supervisors