

Online survey on the integration of sustainability risks and sustainability factors in the delegated acts under the Insurance Distribution Directive and the Solvency II Directive

Fields marked with * are mandatory.

Introduction

* Which part of the questionnaire would you like to answer?

- IDD only
- SII only
- Both

EIOPA invites all the interested stakeholder to fill in an online survey for the Call for Advice from the European Commission on potential amendment to the delegated acts under the Insurance Distribution Directive¹ (IDD) and the Solvency II Directive² (SII) with regard to the integration of sustainability risks and sustainability factors.

On 24 May 2018, the European Commission adopted a package of measures on sustainable finance. The package included proposals aimed at establishing a unified EU classification system of sustainable economic activities ('taxonomy'); improving disclosure relating to sustainable investments and sustainability risks; creating a new category of benchmarks which will help investors compare the carbon footprint of their investments.

On 24 July 2018, the European Commission has requested the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA) to provide technical advice supplementing the initial package of proposals and to advise the Commission on potential amendments to, or introduction of, delegated acts under, amongst others, the IDD and the SII Directive with regard to the integration of sustainability risks and sustainability factors.³

In view of the novelty of this topic, EIOPA would like to involve market participants and stakeholders at an early stage seeking their input **to build up a suitable "evidence base"** for the thorough development of robust policy recommendations, which will be consulted on at a later stage.

Therefore, EIOPA kindly invites market participants and stakeholders to participate in this survey and to comment on the questions raised.

Comments are most helpful if they:

- respond to the question stated, where applicable; and
- contain a clear rationale.

You are invited to complete the survey by 4 October 2018, 12:00.

Given that EIOPA is also in the process of carrying out other public consultations and data gathering exercises with market participants, EIOPA is very appreciative of any initial input that stakeholders are able to provide by this date on a "best effort" basis.

In case of questions, please contact SustainableFinance@eiopa.europa.eu

Publication of responses

Contributions received will be published on EIOPA's public website unless you request otherwise in the respective field in the template for comments.

Please note that EIOPA is subject to Regulation (EC) No 1049/2001 regarding public access to documents and EIOPA's rules on public access to documents.

Contributions will be made available at the end of the public consultation period.

Data protection

Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published. They will only be used to request clarifications if necessary on the information supplied.

EIOPA, as a European Authority, will process any personal data in line with Regulation (EC) No 45/2001 on the protection of the individuals with regards to the processing of personal data by the Community institutions and bodies and on the free movement of such data. More information on data protection can be found at <https://eiopa.europa.eu/> under the heading 'Legal notice'.

How does EIOPA understand sustainability in the context of the call for advice?

The call for advice refers to “sustainability risks and sustainability factors”, in respect of the investment decision and advisory processes.

What is meant by “sustainability” and “sustainability risks”?

The Commission proposal “on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341” defines, in Article 2(o) “sustainable investments”:

‘sustainable investments’ mean any of the following or a combination of any of the following:

(i) investments in an economic activity that contributes to an environmental objective, including an environmentally sustainable investment as defined in Article 2 of [PO: Please insert reference to Regulation on the establishment of a framework to facilitate sustainable investment];

(ii) investments in an economic activity that contributes to a social objective, and in particular an investment

that contributes to tackling inequality, an investment fostering social cohesion, social integration and labour relations, or an investment in human capital or economically or socially disadvantaged communities;

(iii) investments in companies following good governance practices, and in particular companies with sound management structures, employee relations, remuneration of relevant staff and tax compliance.

The definition relates to the proposal on “the establishment of a framework to facilitate sustainable investment”, i.e. the taxonomy. Its Article 2(a) defines an “environmentally sustainable investment” as *“an investment that funds one or several economic activities that qualify under this Regulation as environmentally sustainable”*.

Please note that further work at the European Commission level on the taxonomy is on-going.

It is also useful to refer to Recital 58 of Directive (EU) 2016/2341 (the “IORP II” Directive), which itself refers to the United Nations-supported Principles for Responsible Investment to define environmental, social and governance factors.

The impact assessment of the Commission legislative proposals of 24th May operationalises the concept of sustainability by referring to the so-called ESG factors. They write:

Although there is no definitive list of which issues or factors are covered by the terms “ESG”, they are - according to UNEP Inquiry and the PRI, broadly defined as follows:

(i) Environmental (E) issues relate to the quality and functioning of the natural environment and natural systems;

(ii) Social (S) issues relate to the rights, well-being and interests of people and communities; and

(iii) Governance (G) issues relate to the governance of companies and other investee entities.

For the purpose of this online survey, “ESG investment risks” should be understood as the risks relating to ESG factors and that would materialise in the assets undertakings are holding.

Please also refer to the final report from the Financial Stability Board “Task force on climate-related financial disclosures”, which divides climate-related risks into *“two major categories:*

(1) risks related to the transition to a lower carbon economy and;

(2) risks related to the physical impacts of climate change”.

[1] Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution

[2] Directive 2009/138/EC of 25 November 2009 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 335, 17.12.2009, p. 1)

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

[4] https://ec.europa.eu/info/law/better-regulation/initiative/1185/publication/238004/attachment/090166e5baea374d_en

[5] https://ec.europa.eu/info/law/better-regulation/initiative/1185/publication/238025/attachment/090166e5baea4e23_en

[6] <http://ec.europa.eu/transparency/regdoc/rep/10102/2018/EN/SWD-2018-264-F1-EN-MAIN-PART-1.PDF>

[7] <https://www.fsb-tcfd.org/wp-content/uploads/2017/06/FINAL-TCFD-Report-062817.pdf>

Remarks on completing the questionnaire

Choice of internet browsers

Please use preferably Firefox or Chrome for best speed of the online questionnaire whilst ensuring use of the latest version of the browser.

Saving a draft questionnaire

After you start filling in responses to the questionnaire there is a facility to save your answers.

HOWEVER, PLEASE NOTE THAT THE USE OF THE ONLINE SAVING FUNCTIONALITY IS AT THE USER'S OWN RISK.

As a result, it is strongly recommended to complete the online questionnaire in one go (i.e. all at once).

Should you still proceed with saving your answers, the online tool will immediately generate and provide you with a new link from which you will be able to access your saved answers.

It is also recommended that you select the "Send this Link as Email" icon to send a copy of the weblink to your email - please take care of typing in your email address correctly. This procedure does not, however, guarantee that your answers will be successfully saved.

Uploading document(s)

In the last section of the questionnaire, you can also share additional material by clicking on "Select file to upload". Several documents (e.g. Word, Excel, Pdf) can be uploaded. However, note that each document / file is limited to 1MB or less in size.

Printing the completed questionnaire

You will have the possibility to print a pdf version of the final responses to the questionnaire after submitting it by clicking on "Download PDF".

You will automatically receive an email with the pdf file. Do not forget to check your junk / spam mailbox.

Contact details

* Name of your organisation

French Asset Management Association (Association Francaise de la Gestion financiere, AFG)

* Your name

Alois THIANT

* Email

a.thiant@afg.asso.fr

* Your member state

- Austria
- Belgium
- Bulgaria

- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Norway
- Other
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom

Insurance Distribution Directive

Product Oversight and Governance

1. Should sustainability considerations be included in the target market assessment of all life insurance products, or only of insurance-based investment products? Please provide reasons for your answer

French asset managers are supportive of the overarching principle to clarify the suitability assessment requirements and formally include client preferences on sustainability. In this regard we believe it is essential that those carrying out suitability assessments on investor needs are fully included in this debate. These can range from large wealth managers and discretionary managers to the vast number of individual advisors and insurance intermediaries who support European consumers in their investment choices.

* Level playing field between IDD and MiFID 2

Seeing the European Commission's proposals, we are concerned that changes to IDD would be much more general (than changes to MiFID 2). We fear that this would further increase the gap between the strict framework for advice and sales of financial products by MIFID firms and distribution of the same investment products by insurance intermediaries. We strongly believe that there should be a true level playing field on this topic. It is not a good signal in terms of governance of the law to deepen the opposition between those two pieces of law, even more so on the matter of ESG and sustainable investment.

Therefore, we recommend aligning the requirements in MIFID 2 onto those in IDD, namely the introduction of a client investor's ESG preferences as a new criterion to be explicitly considered when performing an investment service.

* Consumer preferences and products on offer

Consumers must be in a position to request products with ESG objectives, and rightly so. However, providers must still be allowed to offer products (ESG-oriented or not) which they think may fit consumers' needs.

2. Should sustainability considerations be taken into account in relation to the target market assessment of non-life insurance products? Please provide reasons for your answer

3. Should the assessment of sustainability considerations be mandatory in the target market assessment of the product? If so, please explain why you consider it important

4. How should sustainability considerations be included in the target market assessment?

5. Do sustainability considerations play a role in other aspects of product oversight and governance requirements such as product testing and product monitoring and review? Please explain your answer

Conflicts of Interest

6. What types of conflicts of interest might arise from taking into account sustainability considerations in the course of providing insurance distribution activities? Please provide specific examples

7. Under which circumstances might these conflicts of interest cause damage to the interests of customers? Please provide specific examples

8. Which specific steps could be taken to identify, prevent, manage and disclose conflicts of interest arising from taking into account sustainability considerations? Please provide examples

9. How do you see sustainability considerations impacting other aspects of conflicts of interest regulation in the IDD, such as the conflicts of interest policy (Article 4, DR), procedures and measures under the conflicts of interest policy (Article 5, DR), disclosure (Article 6, DR) and review and record-keeping (Article 7, DR)?

1. What do you understand by ESG factors and is this consistent with the definitions provided in the introduction to this survey?

2. Do you think ESG risks in investment decision should be another element to consider, without giving this element a greater importance than the others, or could the integration of ESG risks lead to non-sustainable investments being disregarded?

3. What are the skills necessary to identify, manage and monitor ESG investment risks? How could fit and proper requirements contribute to a better consideration of ESG risks?

4. Do you think that the consideration of ESG factors affecting investment decision is relevant for both life insurance undertakings and other type of undertakings (non-life insurance undertakings and reinsurance undertakings)? Why?

Organisational requirements

5. How should ESG factors be considered by undertakings in their investment decision process? What are the current practices?

6. What should be the role of the administrative, management or supervisory body (AMSB) in relation to ESG investment risks?

7. How could remuneration rules contribute to a better consideration of ESG risks?

8. What should be the tasks of each of the key functions (eg. risk-management, compliance, internal audit, and actuarial) in relation to ESG investment risks? And how should cooperation between them be articulated to ensure effective integration of ESG investment risks?

9. What internal policies and procedures are necessary to ensure an effective integration of sustainability risk in the decision process?

10. What type of conflicts of interest might arise from taking into account sustainability considerations in the investment decision process? Please provide specific examples

11. How would conflicts of interest be identified and resolved?

12. How can the internal control system (including monitoring and oversight) contribute to the effective integration of ESG risks in the investment decision process?

13. Are there other elements of the undertakings' system of governance, which could contribute to the effective integration of ESG risks in the investment decision process?

Operating conditions and investment rules

14. How are ESG risks currently considered in the investment strategies of insurance undertakings? Please in particular elaborate on whether the prudent person principle allows for the adequate integration of ESG investment risks

15. How do undertakings perform the due diligence in the selection and monitoring of investments in relation to ESG risks?

Risk management

16. How should ESG investment risks be included in the risk management strategy? Should there be specific risk tolerance limits, specific written policies and specific internal reporting procedures?

17. How are ESG investment risks measured and quantified by insurance undertakings? With which data? To what extent does the risk management approach for ESG investment risks differ from other types of risks? Do you currently use scenario analysis as a tool to measure and quantify these risks? If not, why?

18. How should the assessment of the undertaking's overall solvency needs consider ESG investment risks? Are you disclosing these in your ORSA?

19. How are sustainability risks in general (e.g. that would materialise in the liability side of the balance-sheet and including exposure to climate risks) managed and mitigated by insurance and reinsurance undertakings?

20. To which extent should the underwriting policy requirements be modified to take account of ESG investment risks and reflect how ESG preferences could be included in the target market assessment?

21. Please provide any other comment on the integration of ESG risks and factor in the investment decision process or on sustainability in general that relate to Solvency II.

Common Areas

1. Do you find there are common areas between Solvency II and IDD in relation to ESG investment risks that should be given specific attention? To the extent possible, please provide legal references to relevant articles.

2. Do you find there are common areas between the Solvency II Directive other EU financial services directives in relation to ESG investment risks that should be given specific attention? To the extent possible, please provide legal references to relevant articles.

Additional material

Please upload your file should you wish to send additional material or comments

The maximum file size is 1 MB

Contact

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