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EIOPA-BoS-19/172
30 April 2019

EIOPA's Technical Advice on the integration of sustainability risks and factors in the delegated acts under Solvency II and IDD

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1. Introduction

1. On 24 May 2018, the European Commission (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 requirements on how institutional investors integrate environmental, social and governance (ESG) factors in their investment and advisory processes; and creating a new category of benchmarks which will help investors compare the carbon footprint of their investments.
2. On 24 July 2018, the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA) received a formal request (mandate)[1] from the Commission to provide technical advice supplementing the initial package of proposals and to assist the Commission on potential amendments to, or introduction of, delegated acts under Directive 2009/65/EC (UCITS), Directive 2009/138/EC (Solvency II), Directive 2011/61/EU (AIFM), Directive 2014/65/EU (MiFID II) and Directive 2016/97/EU (Insurance Distribution Directive- IDD) with regard to the integration of sustainability risks and sustainability factors.
3. The Commission invited both EIOPA and ESMA to closely liaise with and consult each other in the preparation of their technical advices to ensure consistency across sectors and requested EIOPA and ESMA to provide technical advice by no later than 30 April 2019.On 28 November 2018, EIOPA launched a Public Consultation on the draft Technical Advice on the integration of sustainability risks and factors in the delegated acts under Solvency II and IDD. After having analysed the comments from stakeholders, EIOPA has modified its advice, where appropriate. EIOPA has also provided a summary of the main comments received during this public consultation (see feedback statement in section 2 of this Final report).
4. This final report sets out the final text of the technical advice, including an impact assessment.

Background

5. Sustainability has long been 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 has expressed in the Action Plan: Financing Sustainable Growth, its intention to clarify so-called fiduciary duties and increase transparency in the field of sustainability risks and sustainable investment opportunities with the aim to:
   - reorient capital flows towards sustainable investment in order to achieve sustainable and inclusive growth;
   - assess and manage relevant financial risks stemming from climate change, resource depletion, environmental degradation and social issues; and

[1] Request from DG FISMA to EIOPA and ESMA for technical advices with regard to the integration of sustainability risks and sustainability factors: https://eiopa.europa.eu/Publications/Requests%20for%20advice/20180724-Letter%20to%20EIOPA-ESMA-St.Fin.pdf

- foster transparency and “long-termism” in financial and economic activity.

6. Consequently, the Commission adopted several legislative proposals on sustainable finance of 24 May 2018, including a proposal for a regulation on disclosures relating to sustainable investments and sustainability risks and targeted amendments to Commission Delegated Regulation (EU) 2017/565 and Commission Delegated Regulation (EU) 2017/2359 to increase disclosures of environmental, social and governance-related (hereafter, ESG) information and to integrate ESG-related preferences into the suitability assessment under IDD and MiFID II. The Commission launched public consultations to seek stakeholders' feedback on amendments to Commission Delegated Regulation 2017/565 and Commission Delegated Regulation 2017/2359 to include ESG considerations when investment or insurance advice is provided. Following the public consultations, the Commission intends to adopt the amendments.
7. Following the Commission proposal of May 2018, a political agreement was reached in March 2019 among the EU co-legislators on the final text of the Regulation on sustainability-related disclosures in the financial sector (Disclosure Regulation)[2]. Due to the timing of the political agreement, and the content of the original Call for Advice from the Commission, EIOPA did not consider the recently approved Disclosure Regulation in its public consultation process, but in the final advice it considered in particular the text with regard to transparency on remuneration.
8. During the preparation of the technical advice, EIOPA has liaised closely with ESMA to ensure consistency across sectors.

Structure of the technical advice

9. EIOPA has structured its technical advice in two parts: a section related to those issues affecting the provisions of delegated acts under Solvency II and another section related to those issues affecting the provisions of delegated acts under IDD.
10. The structure of the technical advice also reflects the specific issues referred in the Commission’s request:
    - organisational requirements;
    - operating conditions;
    - risk management; and
    - target market assessment.
11. The Solvency II section covers the first three mentioned issues. The IDD section covers conflict of interests (related to organisational requirements) and product oversight and governance (related to the target market assessment).

[2] Presidency compromise text of 22 March 2019: https://data.consilium.europa.eu/doc/document/ST-7571-2019-ADD-1/en/pdf

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

12. The Call for Advice refers to "sustainability risks and sustainability factors", in respect of the investment decision and insurance distribution processes. What is meant by "sustainability" and "sustainability risks"?

13. The United Nation's **Sustainable Development Goals** (SDGs), adopted in 2015, refers to sustainability goals with regard to poverty, inequality, climate, environmental degradation, prosperity and peace and justice.

14. The **Non-Financial Reporting Directive** 2014/95 refers to sustainability when introducing requirements for disclosure of non-financial information on the undertaking's[3] development, performance, position and impact of its activity, relating to environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters.

15. The Task Force on Climate-related Financial Disclosures, under the leadership of the Financial Stability Board, issued in 2017, its recommendations for a standardised framework for disclosing **climate-related financial risks**. With this in mind, the financial impacts of climate risk on assets, liabilities, capital and financing are being brought to the discussion on sustainability.

16. The political agreement on the final text of the Regulation on sustainability-related disclosures in the financial sector (Disclosure Regulation)[4] proposes the following definition, 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 contribute to an* <u>*environmental objective*</u>*, such as measured by key resource efficiency indicators on the use of energy, renewable energy, raw materials, water and land, on the production of waste, and greenhouse gas emissions, and on the impact on biodiversity and the circular economy;*
    >
    > *(ii) investments in an economic activity that contribute to a* <u>*social objective*</u>*, and in particular investments that contribute to tackling inequality, that foster social cohesion, social integration and labour relations, or investments in human capital or economically or socially disadvantaged communities;*

    Provided that the investments do not significantly harm any of those objectives and the investee companies follow good governance practices, in particular with respect to sound management structures, employee relations, remuneration of relevant staff and tax compliance;

17. The definition in the Commission proposal relates to the proposal on "the establishment of a framework to facilitate sustainable investment", i.e. the taxonomy[5]. 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.

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[3] Public-interest entities exceeding on their balance sheet dates the criterion of the average number of 500 employees.

[4] Presidency compromise text of 22 March 2019: https://data.consilium.europa.eu/doc/document/ST-7571-2019-ADD-1/en/pdf

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

18. Recital 58 of Directive (EU) 2016/2341 (the "IORP II" Directive) cites the relevance of **environmental, social and governance factors**, as referred to in the United Nations-supported Principles for Responsible Investment, for the investment policy and risk management systems of IORPs.

19. The impact assessment of the Commission legislative proposals of 24th May operationalises the concept of sustainability by referring to the so-called **environmental, social and governance (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.

20. For the purpose of this advice, EIOPA has chosen to refer predominantly to **sustainability risks**. These sustainability risks are operationalised via/stem from the concepts of environmental, social and governance risks. EIOPA acknowledges that, currently, the assessment of environmental factors, in particular climate change, is most advanced in theory and practice. Please also refer to the final report from the Financial Stability Board "Task force on climate-related financial disclosures"[6], 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".

21. Where the analysis and advice particularly aim to point out to the risks and opportunities brought by sustainability considerations, the term "**sustainability factors**" is used. In the analysis and advice on IDD the term "ESG preferences" is used as this is the term currently employed by the Commission in their proposed amendments to IDD and MiFID II delegated acts on the suitability assessment to refer to ESG (sustainability) considerations[7].

22. Sustainability risks, in the same way as legal or emerging risks, tend to materialise through existing risk categories such as credit risk or property risk. EIOPA does not consider sustainability risks to be a sub-category of emerging risks. Some sustainability risks may still be emerging, but some are already having an impact, such as physical damage to assets caused by environmental risks.

23. EIOPA acknowledges that the final text of the Disclosure Regulation[8] will introduce changes to the definition of "sustainable investment" initially proposed by the Commision as well as additional definitions on these topics, including "sustainability risk".

24. Without prejudice to the general definition of "sustainability risks" in the context of the disclosure framework, for the purpose of the Advice, sustainability risks should be understood as risks that could affect the insurance and reinsurance

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

[7] COM's proposal for a Delegated Regulation amending Regulation (EU) 2017/2359 as regards the integration of Environmental, Social and Governance (ESG) considerations and preferences into the investment advice for insurance-based investment products can be found here: http://ec.europa.eu/finance/docs/level-2-measures/idd-delegated-act-2018_en.pdf

[8] Presidency compromise text of 22 March 2019: https://data.consilium.europa.eu/doc/document/ST-7571-2019-ADD-1/en/pdf

undertakings' risk profile, on the investments and liabilities side, due to ESG factors.

Approach to the Commission's request

25. The Commission's request for integration of sustainability factors and risks in investment decision and insurance distribution processes is detailed. As EIOPA reads it, this is a request for granular requirements, both from the prudential and the conduct of business points of view. For instance, the Commission requests EIOPA, on organisational requirements, to advise on "*steps of procedures and processes to ensure the effectiveness and adequacy of sustainability risk integration*".

26. The Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 (Solvency II Delegated Regulation) usually does not provide procedural requirements with that level of granularity on specific risks. In fact, such an approach would lead to disproportionate regulation, which would be more appropriately addressed in guidelines.

27. Therefore, EIOPA is proposing to be consistent in the way the requirements for sustainability risks are expressed, when compared with other risks in the Solvency II Delegated Regulation.

28. Furthermore, the call for advice targets life insurance products and, therefore, life insurance undertakings. From a prudential point of view, sustainability risks and factors would affect the investments of life and non-life insurance and reinsurance undertakings. In Solvency II, usually the requirements are not for one or another type of undertaking, but for all insurance and reinsurance undertakings. EIOPA has chosen to follow this approach and is proposing that the requirements apply to all undertakings. EIOPA also notes that non-life insurance undertakings could also have long-term liabilities and hence hold assets over the long-term.

29. Finally, the call for advice focuses on integrating sustainability factors and risks in the investment decision process of undertakings. As explained below, this would affect the key functions and in particular the risk management function, the prudent person principle, the written policies on risk management and the ORSA. In particular for non-life insurance and reinsurance undertakings, sustainability risks will affect first their liabilities. EIOPA finds that it would be unbalanced to introduce changes in the Solvency II Delegated Regulation on the asset side and not on the liability side. Therefore, this advice reflects proposals on both sides of the balance sheet in all the areas assessed as relevant by the Commission: organisational requirements, operational conditions and risk management. In this respect, EIOPA refers also to the Commission's ulterior request to EIOPA for an opinion on sustainability within Solvency II, which addresses the impact of prudential rules on insurers' sustainable investments, as well as the integration of sustainability considerations in their underwriting practice and calculation of the best estimate.

Cost-benefit analysis

30. EIOPA has been requested by the Commission to support its Technical Advice with data and evidence on the potential impacts of proposals identified, including an assessment of the relative impacts of different options where this is appropriate. Where impacts could prove substantial, the Commission has requested, where feasible, that EIOPA provides quantitative data. The provision

of such data and evidence will aid the Commission in preparing an Impact Assessment on the measures it shall adopt.

31. EIOPA has included a high-level assessment of possible impacts in Annex I. In developing this submission, EIOPA has also built upon the responses/data received to the public consultation on the costs and benefits of its proposals.

Next Steps

32. EIOPA will submit the Technical Advice and Impact Assessment to the European Commission by end of April 2019 in accordance with the Commission's Request for Advice.

33. EIOPA will monitor the issues raised in this Technical Advice and assess the need for issuing guidance to specify particular issues raised in this Technical Advice.

2. Feedback Statement

34. EIOPA would like to thank the Insurance and Reinsurance Stakeholder Group (IRSG) and all the participants to the public consultation for their comments on the draft technical advice. The responses received have provided important guidance to EIOPA in preparing a final version of the technical advice for submission to the European Commission. All of the comments made were given careful consideration by EIOPA. A summary of the main comments received and EIOPA's response to them can be found below and a full list of all the comments provided and EIOPA's responses to them can be found in Annex II.

Solvency II- general comments

a. Summary of main comments received

35. Definition of "sustainability risks". Stakeholders requested a more precise definition of sustainability risks, which at the same time should be flexible and provide insurers with sufficient methodological freedom to deal with these risks. Proposals were made to include materiality in the definition (i.e. financially material risks that affect the risk profile of the undertaking). The call for more clarity was made in light of uncertainties regarding the final text of the Regulation on disclosures relating to sustainable investments and sustainability risks and the development of taxonomy.

    "Proportionality". Stakeholders mention that explicit references to proportionality should be included and propose the introduction of thresholds to exclude small insurers from the most burdensome requirements. Specific sustainability-related information in order to comply with mandatory requirements could end up being unreasonably demanding for small insurers, especially when having to obtain this information from third party providers (e.g. rating agencies or asset managers) Furthermore, they highlight the risk of over-emphasising sustainability risk by mentioning the risk explicitly.

b. Assessment

36. EIOPA acknowledges the difficulty in identifying, measuring or monitoring sustainability risks today. Sustainability risks add a dimension to an undertakings' risk assessment arising from ongoing changes in environment and society, whose direct or indirect effects may not realise for some time. Such complex risks will require investment in analysis capacity, data and the development of forward-looking approaches to risk management, as we are unable to rely as much on historical data for this.

    Proportionality applies throughout the requirements. In particular, EIOPA considers that the reference to the effect of sustainability risks in the ORSA is flexible enough to allow for sufficient flexibility, taking into account the different risk profile of undertakings. Nevertheless, EIOPA acknowledges the stakeholders' concerns on the proportionate application of such requirement. The application of the proportionality principle and the possibility to allow for simplified approaches has been explicitly highlighted in the advice.

37. Further defining sustainability risks as "material", "relevant" or "financially relevant" would not reflect the complex nature of sustainability risks and would be inconsistent with the treatment of other risks (e.g. reputational risks). The regulatory approach needs to allow for evolving understanding and techniques.

Solvency II- organisational requirements

a. Summary of main comments received

38. Most of the respondents agreed with the proposal to include a reference to sustainability risks under the tasks of the risk management function. However, several stakeholders highlighted that such explicit reference is neither necessary nor appropriate; the identification and assessment of sustainability risks is deemed included in the current tasks of the risk management function and insurers already deal with a multiplicity of different risks which are not specified in the regulation; the explicit reference to sustainability risks could unintentionally imply that other risks are of less importance.

39. The majority of respondents commented that no additional amendments in the Solvency II Delegated Regulation would be necessary with respect to organisational requirements. Some possible amendments were proposed to include an explicit reference to sustainability related issues in Article 273 (fitness requirements), Article 274 (outsourcing) and Article 275 (remuneration) as well as the development of disclosure requirements.

40. As to the role of the actuarial function, the majority of respondents agreed with the proposed advice. The comment was also made that this should not be misinterpreted that this is not already being accounted for in the underwriting process, and that this does not signal additional reserving or capital needs.

b. Assessment

41. EIOPA agrees that the identification and assessment of sustainability risks should already be under the control of the risk management function; the risk management function is responsible for monitoring the risk management system, which should consider all risks insurance undertakings are or could be exposed to. It is acknowledged, however, that practice differs among undertakings.

42. EIOPA is of the view that fitness requirements, outsourcing and remuneration are also relevant areas where additional provisions might contribute to the proper integration of sustainability risks in undertakings' decision processes. Taking into account the current level of detail of the Solvency II Delegated Regulation in the areas of fitness requirements and outsourcing, EIOPA considers a greater emphasis on sustainability with respect to other types of risks unnecessary. With respect to remuneration, a reference to sustainability aspects is proposed to be added in Article 275 of the Solvency II Delegated Regulation, in view of the requirements on transparency of remuneration policies in the compromise text of the Regulation on sustainability-related disclosures in the financial sector.With respect to the disclosure requirements, EIOPA understands that this would go beyond the scope of the call for advice and that existing initiatives at COM would be preferable to wait.

Solvency II- operating conditions

a. Summary of main comments received

43. The majority of respondents support the integration of sustainability risks within the prudent person principle. Suggestions were made to refer to financially material risks, to ensure flexibility for undertakings.

44. With regard to the requirement for taking into account the potential long-term impact of investment decisions on sustainability factors, stakeholders express support for what they refer to as "impact investment", but question the relevance and practical consequences of introducing this in a prudential framework. Comments were made that this may contradict the requirement to act in the best interest of existing stakeholders, including policyholders and beneficiaries, of the

company and the freedom of investment. Issues were raised with regard to the feasibility, the expected costs, the need to consider proportionality and the current lack of common approaches and resources.

45. Stakeholders commented that the inclusion of policyholder's and beneficiaries' ESG preferences would go beyond the scope of prudential regulation. Preferences would be too heterogeneous, cannot be reflected for all policyholders and beneficiaries and the requirement possibly contradicts the fiduciary duty of insurers that provide general portfolio investment.

b. Assessment

46. EIOPA is of the view that sustainability risks would not require further definition, as explained above.

47. EIOPA considers it is prudentially relevant to require undertakings to take into account the impact of their investment strategy and decision on sustainability factors. The resilience of the real economy and the stability of the financial system, fuelled by integrating sustainability considerations in the investment strategy and decisions, has the potential to impact on the risk-return characteristics of a portfolio, as other factors. Acting as responsible, long-term investors through engagement with companies will contain reputational risk. As part of the supervisory review process, supervisors shall assess the adequacy of methods used by undertakings to identify possible events or future changes in economic conditions that could have adverse effects on the (re)insurers' overall financial standing (Article 36(4) Solvency II Directive).

48. This would not amount to requiring undertakings to make sustainable investments or to invest with impact, or to accept lower risk-adjusted returns. Undertakings may decide on their stewardship approach by adopting an engagement and voting strategy (for equity holdings), but also by implementing or adapting investment strategies, for example through exclusions (negative screening), norms-based screening, ESG integration, best-in-class (positive screening), sustainability themed investments or impact investing.

49. EIOPA proposes to clarify the analysis for Article 275bis(2), to clarify that the requirement for assessing the impact of investments on sustainability factors does not imply or require compromising on return and profitability of the investments. Reference to the investment strategy and decisions, should enable a proportionate implementation of the requirements considering the nature, scale and complexity of the undertaking's investments and the tools available to measure the risks.

50. With regard to the policyholders' and beneficiaries' ESG preferences, EIOPA would like to clarify that the requirement seeks to ensure that the undertaking consequently implements in the risk management and investment management strategy of the undertaking, the commitments made to policyholders on ESG characteristics of the specific product. In offering ESG-specific products and not investing accordingly, insurers would be exposed to reputational or, potentially, liability risks. The proposal does not require that ESG preferences of policyholders and beneficiaries are systematically collected for all insurance products.

51. EIOPA accepts the proposal for the rewording of the recital, and clarifies further the scope of the article and recital. EIOPA also clarifies that the requirement should not be at the expense of (other) policyholders' and beneficiaries' interest with regard to financial returns.

Solvency II- risk management

a. Summary of main comments received

52. The majority of stakeholders agrees on the proposals made. With regard to the integration of sustainability risks in the underwriting risk management area, the comment was made that this is already implied and considered in the handling of underwriting risks.

53. With respect to the ORSA several stakeholders commented that explicit reference to sustainability is deemed necessary, useful and consistent with the forward looking and long time horizon of the ORSA.

54. Some stakeholders disagreed with the proposed amendment based on the requirement that ORSA is company specific; therefore measurement and quantification of the effects of sustainability risks is necessary only when these effects are financially material for the undertaking's ORSA. They also mentioned that proportionality, qualitative assessment and simple quantitative analysis should be allowed in application of the proportionality principle.

b. Assessment

55. As to the relevance of referring to sustainability risk in the underwriting risk management area, EIOPA points out that the Commission's ulterior request to EIOPA for an opinion on sustainability within Solvency II, addresses the impact of prudential rules on insurers' sustainable investments, as well as their underwriting practice and calculation of the best estimate.

56. EIOPA's intention is to point out that sustainability risks have an important impact on pricing and underwriting strategy. Here, EIOPA would like to underline the role of insurers in promoting and implementing risk mitigation strategies related to sustainability risks, which may be through product design, claims handling, furthering the general risk awareness and compliance from policyholders and beneficiaries or securing risk transfer.

57. EIOPA considers that the reference to the effect of sustainability risks in the ORSA is flexible enough to allow for sufficient flexibility, taking into account the different risk profile of undertakings. Nevertheless, EIOPA acknowledges the stakeholders' concerns on the proportionate application of such requirement. The application of the proportionality principle and the possibility to allow for simplified approaches has been explicitly highlighted in the advice.

IDD- organisational requirements

a. Summary of main comments received

58. The majority of respondents agreed with EIOPA's view that conflicts of interest may arise with regard to the ESG preferences of customers. In addition to the specific situations outlined in the Consultation Paper, some respondents provided further examples where conflicts of interest may arise in the context of ESG considerations, such as pooled investments where assets of customers with different ESG preferences are managed; remuneration and incentive structures of external asset managers and proxy advisors, as well as remuneration and incentives schemes to promote the distribution of ESG products or to achieve sustainability targets.

59. Whereas many respondents supported the application of the high-level principles for the identification and management of conflicts of interest, some respondents expressed their preference to introduce an explicit reference to ESG

considerations in the Recital of the Delegated Regulation only, but not in the legislative text as such.

60. Some respondents expressed their concern about the wording “where relevant” as this expression would be unclear and cause legal uncertainty. One respondent proposed to replace “where relevant” with “at the request of the customer”, whereas another respondent argued that the ESG preferences should be considered, only if explicitly mentioned by the customer. Most respondents supported the application of the general rules governing the management of conflicts of interest, whereas some respondents emphasised the necessity of disclosure and transparency towards customers.

b. Assessment

61. EIOPA considers the examples of conflicts of interest arising in the context of ESG considerations provided by respondents as very useful and has amended the explanatory text of its Technical Advice accordingly. As the examples provide good guidance and support for the identification of possible areas where conflicts of interest may arise, it could even be considered to explicitly reiterate them in a Recital of the Delegated Regulation.

62. EIOPA acknowledges the concerns expressed by some respondents with regard to the explicit reference to ESG considerations and the argument of unbalancing the legislative text. However, EIOPA considers this explicit reference necessary in view of the novelty of this topic and to raise awareness amongst stakeholders around this subject matter.

63. EIOPA does not share the view that ESG preferences of customers should be considered, only if customers have expressed their preferences to the insurance undertaking or insurance intermediary. EIOPA is the view that insurance undertakings and insurance intermediaries should always be required to take all appropriate steps to identify conflicts of interest that arise in the course of carrying out any distribution activities (as stated in Article 28 of the IDD), and not only if explicitly mentioned by the customer. The latter approach would limit the scope of Article 28, IDD and disadvantage the customer.

64. EIOPA takes note of the concerns around the terminology “where relevant” and proposes the introduction of a new Recital to provide further clarity.

IDD- Product Oversight and Governance

a. Summary of main comments received

65. Whereas the application of the Product Oversight and Governance rules was generally approved by respondents, some argued that the scope should be limited to insurance-based investment products and life insurance products, but not to non-life insurance products, where the risk for investing the assets would be with the insurance undertaking, but not the customer.

66. Some respondents argued that ESG preferences should be relevant for the identification of the target market, only if the respective insurance product would be explicitly designed for customers with ESG preferences. As there would not yet be a legal taxonomy for the classification of ESG products, insurance undertakings should not be required to state in the description of the target market that the insurance product is not pursuing ESG objectives. Other respondents favoured this approach in order to address issues around green-washing and allow customers to make an informed choice.

67. Some respondents made the comment that insurance products may have a general ESG profile which does not correspond to the ESG preferences of the group of customers.

68. Many respondents agreed with EIOPA’s view that the product oversight and governance rules on product testing, monitoring and reviewing should also apply with regard to the ESG profile of an insurance product in view of possible changes during the lifetime of a product.

69. Some respondents asked for more guidance from EIOPA with regard to the application of the rules on product oversight and governance, such as the granularity of the target market assessment.

b. Assessment

70. EIOPA is of the view that ESG considerations can be taken into account with regard to all insurance products, not only insurance-based investment products. EIOPA underlines that insurance undertakings are not required to take ESG considerations into account when designing and manufacturing insurance products, but that the proposals emphasise the manufacturer’s discretion to do so, if wished.

71. EIOPA acknowledges the concerns and would like to clarify that the proposals allow manufacturers to state in the target market that a specific insurance product is not compatible for customers with ESG preferences; but there is no obligation to do so.

72. EIOPA acknowledges the concerns of some stakeholders, arguing that the ESG profile of insurance products may not correspond with the ESG preferences of the target market. To address this issue, EIOPA proposes a clarification in the legal text and the reference to the “specific” ESG preferences.

73. EIOPA will consider the issuance of practical guidance regarding the application of the rules on product oversight and governance in the context of ESG at a later point in time.

General nature of participants to the public consultation

74. EIOPA received comments from the IRSG and 27 responses from other stakeholders to the public consultation. All the comments received have been published on EIOPA’s website.

75. Respondents can be classified into the following main categories: industry associations (13), (re)insurance groups or undertakings (4), consumer representatives (2) and other (8).

IRSG opinion

76. The particular comments from the IRSG on the technical advice can be consulted on EIOPA’s website.

3. Technical advice on delegated acts under Solvency II

77. The Commission request refers to a wide range of aspects regarding the system of governance of insurance undertakings which could be potentially affected by an amendment of the delegated acts under of Solvency II.

78. The relevant provisions of the Solvency II Directive are the following:

- Article 50(1)(a) and (b)

"The Commission shall adopt delegated acts in accordance with Article 301a to further specify the following:

(a) the elements of the systems referred to in Articles 41, 44, 46 and 47, and in particular the areas to be covered by the asset-liability management and investment policy, as referred to in Article 44(2), of insurance and reinsurance undertakings;

(b) the functions referred to in Articles 44, 46, 47 and 48."

- Article 135(1) (a) of the Solvency II Directive

"The Commission may adopt delegated acts in accordance with Article 301a specifying qualitative requirements in the following areas:

the identification, measurement, monitoring and managing of risks arising from investments in relation to the first subparagraph of Article 132(2);"

79. The table below lists the relevant articles of the Solvency II Delegated Regulation.

Empowerment	Solvency II	Delegated Regulation
Article 50(1)(a) Elements of system of governance	Article 41 General governance requirements	Article 258 General governance requirements Article 268 Specific provisions (functions) Article 273 Fit and proper requirements Article 274 Outsourcing Article 275 Remuneration policy
	Article 44 Risk management	Article 259 Risk management system Article 260 Risk management areas
	Article 46 Internal control	Article 266 Internal control system
	Article 47 Internal audit	
Article 50 (1) (b) Functions	Article 44 Risk management function	Article 269 Risk management function

	Article 46 Compliance function	Article 270 Actuarial function
	Article 47 Internal audit function	Article 271 Internal audit function
	Article 48 Actuarial function	Article 272 Actuarial function
Article 135 (1) (a)	Article 132(2) Prudent person principle	N/A

3.1 Organisational requirements

Extract from the European Commission's request for advice:

"EIOPA and ESMA are invited to provide technical advices on corporate governance mechanisms within the organisation of the financial market participants and investment and insurance advisors, including, where relevant, but not limited to:

- *The tasks and the role of the risk-management function or procedures for risk assessment, the compliance function, the internal control function or system, the internal audit function and/or the actuarial function in the system of governance and tasks or responsibilities of bodies that undertake the management and supervisory functions in the corporate governance in relation to sustainability risk limits and overseeing their implementation;*
- *steps of procedures and processes to ensure the effectiveness and adequacy of sustainability risk integration;*
- *skill, expertise and knowledge required for the assessment of sustainability risks;*
- *regular reviews of the mechanisms put in place to integrate sustainability risks and regular internal reporting;*
- *adequate support to (e.g. analysis, research and legal advice), and resources across, all relevant functions and where several functions are involved in the integration of sustainability risks, the requirements on cooperation with each other"*

80. With respect to organisational requirements the relevant articles of the Solvency II Delegated Regulation include: article 258 (general governance requirements), articles 268-272 (functions), article 273 (fit and proper requirements), article 274 (outsourcing) and article 275 (remuneration policy).

Analysis

81. Under Solvency II, insurance and reinsurance undertakings are requested to have in place an effective system of governance which provides for sound and prudent management of their business. The system of governance should be proportionate to the nature, scale and complexity of the operations of the undertaking.

82. The requirements on the system of governance are irrespective of the business model or risk profile of undertakings, without unduly restricting them in choosing their own organisational structure.

83. EIOPA considers that the current Solvency II provisions regarding the responsibilities and tasks of the administrative, management or supervisory body (AMSB) and the key functions do not represent an obstacle for the integration of sustainability risks into the undertaking's investment decision process. On the contrary, already now all risks, and therefore also sustainability risks, should be taken into account both in the risk management (and in the ORSA) process and subsequently in the decision processes of the AMSB. However, due to the relative novelty of sustainability risks and the particular long time horizon and uncertainty of risks related to climate change, it seems advisable to more explicitly integrate sustainability risks in some aspects of the system of governance.

84. The AMSB of the insurance or reinsurance undertaking is responsible for the approval of the business strategy and the investment strategy. It is also responsible for the approval of the undertaking's written policies on the system of governance, including the risk management policy. Consequently, the AMSB is expected to have a crucial role in providing the adequate corporate framework to promote or, at least, to allow for a proper integration of sustainability risks in the investment decision process.

85. Although the concrete allocation of tasks within the undertaking will vary, the integration of sustainability risks in the investment decision process will have a direct and significant impact on the investment management tasks at operational level and will consequently affect the control over those by the key functions, in particular the risk management function.

86. As responsible for monitoring the risk management system, the risk management function should control the proper identification and assessment of sustainability risks.

87. Insurance and reinsurance undertakings, irrespective of their particular investment strategy and of their nature (life or non-life), are inevitably exposed to sustainability risks and they should, at least, assess the materiality of those risks. EIOPA considers that making explicit reference to sustainability risks as proposed will promote that insurance and reinsurance undertakings take proper consideration of sustainability risks in the future and allows sufficient flexibility considering that not all undertakings will be affected in the same manner.

88. EIOPA considers that other elements of the system of governance, such as the fitness requirements, could be adapted for a better integration of sustainability risks in the undertakings' investment decisions. However, taking into account the current level of detail of the Solvency II Delegated Regulation, which does not contain specific organisational provisions for particular risk areas, EIOPA considers that a further explicit reference to sustainability risks would not be coherent. With respect to those elements, guidelines might be helpful to ensure common understanding, allowing for more flexibility.

89. With respect to fitness requirements, undertakings are already requested to ensure that AMSB members collectively possess the necessary qualifications, competency, skills and professional experience in the relevant areas of the business in order to effectively manage and oversee the undertaking in a professional manner. Insurance and reinsurance undertakings should employ personnel with the skills, knowledge and expertise necessary to carry out the responsibilities allocated to them. The assessment of whether a person is fit includes an assessment of the person's professional and formal qualifications, knowledge and experience not only within the insurance and financial sector but also in other businesses.

90. The assessment of sustainability risks requires deep knowledge of the undertaking's business, the external environment and the interaction between both. For such purpose, relevant knowledge may include a wide range of different areas such as ecology, law, sociology, financial markets, among others. In particular, risk managers and asset managers should be able to understand what "sustainability risks" means while being able to use relevant internal/external data.

91. EIOPA considers that under the current fitness requirements in the Solvency II Delegated Regulation, insurance and reinsurance undertakings could adapt their internal policy and implement training programs to ensure a sufficient understanding of sustainability risks by the AMSB and relevant functions within the company. Depending on their specific investment strategy, their risk profile and their size, the recruitment of dedicated experts may be needed for some undertakings. In any case, insurance and reinsurance undertakings should be requested to build-in the necessary expertise with particular consideration of the proportionality principle.

92. Consequently, a coherent regulatory action to reinforce fitness requirements regarding sustainability could be taken at the level of guidelines. That would be consistent with the recommendation of the EU High Level Expert Group on Sustainable Finance in January 2018 to modify EIOPA's guidelines on system of governance to include "*relevant long-term risks and opportunities linked to sustainability*" referring to the appropriate qualification, experience and knowledge which the members of the administrative, management or supervisory body should collectively possess [9].

93. Outsourcing is also considered as a topic where further guidance could be helpful, to clarify the expectations on the allocation of responsibilities between the insurance undertakings and assets managers in those cases where the investment activities are (partially) outsourced.

94. Remuneration can also be used as a tool for the integration of sustainability risks in the investment decisions. Solvency II Delegated Regulation currently provides that the remuneration policy and remuneration practices shall be in line with the undertaking's business and risk management strategy, its risk profile, objectives, risk management practices and the long-term interests and performance of the undertaking. Therefore, changes in the undertaking's investment risk management policy to incorporate sustainability risks will have a subsequent impact on the undertaking's remuneration policy. Undertakings are also requested to take into account both financial and non-financial criteria when assessing an individual's performance. The consideration of sustainability factors is a good example of non-financial criteria that could be taken into account when assessing individual performance.

95. The Regulation on sustainability-related disclosures in the financial sector will impose specific requirements for financial market participants and financial advisers regarding transparency of remuneration policies in relation to the integration of sustainability risks. For consistency with the disclosure requirements, a reference to sustainability aspects is proposed to be added in Article 275 of the Solvency II Delegated Regulation.

96. Consequently, EIOPA is proposing to add a reference to sustainability risks only in Article 269 and Article 275 of the Solvency II Delegated Regulation, on the risk management function and remuneration. In addition, EIOPA is proposing to

[9] See https://ec.europa.eu/info/publications/180131-sustainable-finance-report_en

include reference to sustainability risks in Article 272 of the Solvency II Delegated Regulation, on the actuarial function; the rationale of such proposal is presented in the next section (see paragraphs 67-71).

Technical Advice

Policy proposals for organisational requirements

Solvency II Delegated Regulation to be amended as follows:

Article 269 (1)

"The risk management function shall include all of the following tasks:

(a) assisting the administrative, management or supervisory body and other functions in the effective operation of the risk management system;

(b) monitoring the risk management system;

(c) monitoring the general risk profile of the undertaking as a whole;

(d) detailed reporting on risk exposures and advising the administrative, management or supervisory body on risk management matters, including in relation to strategic affairs such as corporate strategy, mergers and acquisitions and major projects and investments;

(e) identifying and assessing emerging risks **and sustainability risks**."

New paragraph 4 in Article 275

4. The remuneration policy shall include information on how it is consistent with the integration of sustainability risks.

3.2 Operating conditions

Extract from the European Commission's request for advice:

"The Commission is […] seeking the EIOPA and ESMA technical advices on how and where financial market participants are to integrate relevant sustainability risks within their business models and relevant procedures in the areas of […]:

- operating conditions, in particular investment strategy and asset allocation […] taking into account the size, nature, scale and complexity of their activities.

Operating conditions in delegated acts adopted under Article 50(1)(A) of the Solvency II Directive do not establish the details of the integration of sustainability risks within the conduct of business or prudential person rules and due diligence requirements. Financial market participants therefore should (i) define an investment strategy, (ii) where relevant, identify a proper asset allocation which clarifies how client's money is allocated in accordance with the investment strategy, and, (iv) ensure that the portfolio remains in line with the investment strategy and, where relevant, the asset allocation, while integrating sustainability risks."

"EIOPA and ESMA are invited to also consider Article 135 (1) (a) of the Solvency II Directive for potential new level 2 measures."

97. With respect to operating conditions, it should be noted that the Solvency II Delegated Regulation does not currently foresee any specific provision related to the prudent person principle of Article 132 of the Solvency II Directive.

98. Following the approach set out in the introduction of the paper, EIOPA considers that "operating conditions" are being affected by sustainability in two aspects: first, the investment strategy and in particular the prudent person principle; second, the underwriting policy.

Analysis

On the prudent person principle

99. The overarching investment principle under Solvency II, according to Article 132 of the Solvency II Directive, is the prudent person principle. This principle requires that an undertaking only invests in assets and instruments whose risks it can properly identify, measure, monitor, manage, control and report, and appropriately take into account in the assessment of its overall solvency needs. Furthermore, all assets shall be invested in such a manner to ensure the security, quality, liquidity, and profitability of the portfolio as a whole. In particular, assets held to cover the technical provisions shall be invested in the best interest of all policyholders and beneficiaries taking into account any disclosed policy objective.

100. It is the stated objective of the European Commission to reorient private capital flows towards more sustainable investments, defined as those that pursue either environmental, social and governance objectives.[10] EIOPA needs to assess, from a prudential perspective, how this would affect the insurance and reinsurance undertakings' investment strategy and asset allocation.

101. It has become clear, over the past years, that sustainability risks and in particular climate-change risks will affect insurance and reinsurance

undertakings. See for instance the 2015 report of the Prudential Regulation Authority "The impact of climate change on the UK insurance sector"[11] or the 2017 report of the De Nederlandse Bank "Waterproof? An exploration of climate-related risks for the Dutch financial sector"[12].

102. Similarly to risks, the evolution of activities towards more sustainability may also create opportunities and increase the financial return of an investor's diversified portfolio.

103. Undertakings shall therefore, when investing according to the prudent person principle take into account sustainability risks, in line with the economic risk-based approach of Solvency II.

104. The prudent person principle allows for sustainability risks to be taken into account, in analogy with other risks. However, the principle as currently stated in the Solvency II Directive does not require explicitly undertakings to consider these risks.

105. There is a lack of evidence that undertakings across Europe effectively and consistently consider sustainability risks in their investment strategy. This can be explained by a lack of a clear taxonomy of sustainable ("green") / non-sustainable ("brown") investments, a lack of reliability and comparability on ESG information, a lack of experience and ESG skills among institutional investors and asset managers, or the impact on costs and risk-adjusted performance.[13]

106. By assessing the sustainability risks on their investments, insurance undertakings would act in the best interest of the policyholders and beneficiaries, as required by the prudent person principle. Undertakings should assess the extent to which sustainability risks would affect the undertaking's investments and its ability to meet its obligations towards the policyholder.

107. Therefore, EIOPA finds it appropriate to advise the Commission to use the possibility of the empowerment and to include a new article in the Solvency II Delegated Regulation on the prudent person principle, stating how sustainability risks need be considered.

108. Since the prudent person principle requires undertakings to consider the security, quality, liquidity, and profitability of their portfolio as a whole, a possibility would be to further require them to consider the sustainability of their portfolio. EIOPA believes this would not be a solution that would fit best the emerging practices on sustainability risks. Indeed, where sustainability risks materialise, they can affect the security and/or the quality and/or the liquidity and/or the profitability of the investment portfolio. Therefore, it would be operationally more appropriate and better in line with the Solvency II Directive to request undertakings to take into account sustainability risks when assessing their investment portfolio.

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[11] See https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/publication/impact-of-climate-change-on-the-uk-insurance-sector.pdf?la=en&hash=EF9FE0FF9AEC940A2BA722324902FFBA49A5A29A

[12] See https://www.dnb.nl/en/binaries/Waterproof_tcm47-363851.pdf?2018111417

[13] See COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT Accompanying the document Proposal for a Regulation of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment and Proposal for a Regulation of the European Parliament and of the Council on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341 and Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1011 on low carbon benchmarks and positive carbon impact benchmarks, Brussels, 24.5.2018 SWD(2018) 264 final.

109. As highlighted in several reports and analyses, sustainability risks may materialise themselves through a "transition risk". For instance, the 2016 report of the Advisory Scientific Committee of the European Systemic Risk Board "Too late, too sudden: transition to a low-carbon economy and systemic risk"[14] highlights the risk of assets becoming unprofitable, leading investors to dis-invest in certain categories of assets, the so-called "stranded assets".

110. Policymakers should be careful and address this risk. But more fundamentally, EIOPA strongly believes that the transition towards a sustainable economy cannot be achieved by simply implementing a binary approach between sustainable investments and non-sustainable investment.

111. Institutional investors such as insurance and reinsurance undertakings apply engagement strategies to steer the activities of the assets they are holding (where their shareholders' rights allow). This is the principle of stewardship by which undertakings would act to influence the strategy and business of the firms in which they are investing in order to progress towards sustainable economic activities. This principle is already recognised in other regulatory action and initiatives[15] and EIOPA believes that the transition towards a more sustainable economy should also rely on this principle. From a prudential point of view, this can greatly contribute to the management of sustainability risks.

112. EIOPA is not only proposing that sustainability risks be assessed in the investment portfolio of undertakings, but is also proposing to complement the prudent person principle with the requirement for undertakings to assess the potential long-term impact of their investments on sustainability factors. This may include undertakings' active engagement with investees to achieve sustainable investment outcomes through voting strategies or other investment strategies such as for example exclusions (negative screening), norms-based screening, ESG integration, best-in-class (positive screening), sustainability themed investments or impact investing.

113. In this respect, EIOPA's proposal also considered the wording of the existing requirements posed by the IORPII Directive, where it is stated that "within the prudent person rule, Member States shall allow IORPs to take into account the potential long-term impact of investment decisions on environmental, social, and governance factors". EIOPA favours a compulsory requirement to support a European effort of (re)industry towards a resilient and inclusive economy. By addressing both sides of the investment, the impact of the investments and the impact on the investments, a sustainable investment cycle would be implemented:

[14] See https://www.esrb.europa.eu/pub/pdf/asc/Reports_ASC_6_1602.pdf?ea575bbcd2dd43ecebd545ea146f9710

[15] See Directive 2017/828 of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement.

114. EIOPA considers it is prudentially relevant to require undertakings to take into account the impact of their investment on sustainability factors. The resilience of the real economy and the stability of the financial system, fuelled by integrating sustainability considerations in the investment strategy and decisions, has the potential to impact on the risk-return characteristics of a portfolio, as other factors. As part of the supervisory review process, supervisors shall assess the adequacy of methods used by undertakings to identify possible events or future changes in economic conditions that could have adverse effects on the (re)insurers' overall financial standing (Article 36(4) Solvency II Directive).

115. This would not amount to requiring undertakings to make sustainable investments or to invest with impact, or to accept lower risk-adjusted returns. Undertakings may decide on their stewardship approach by exercising voting rights for equity holdings, but also by implementing or adapting investment strategies e.g. for best-in-class investments or exclusions.

116. One last element considered by EIOPA in the prudent person principle is the link of sustainability between the manufacturing of insurance products and investment decision processes. Later in this advice, EIOPA further develops proposals to integrate sustainability in Product Oversight and Governance (POG) requirements in the Insurance Distribution Directive applicable for the design of insurance products. EIOPA's intention is that undertakings in their risk management and investment strategy and decisions consequently implement the commitments made to policyholders and beneficiaries on ESG characteristics of a specific product. In offering ESG-specific products to a certain target market and not investing accordingly, insurers would be exposed to reputational or, potentially, liability risks.

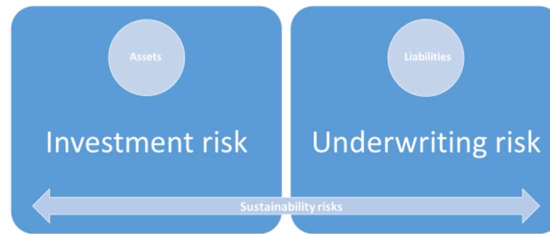
117. In terms of practical implementation, reflecting policyholders' and beneficiaries' ESG preferences in the investment portfolio may only be possible for certain types of products. Typically, if the insurance product provides that undertakings will share a part of their general portfolio investment return with policyholders, reflecting all policyholders' preferences would not be materially possible. However, in the case where the insurance-based investment product relies on funds and UCITS, the insurance undertaking will be able to participate in the selection of the fund reflecting the ESG preferences of the policyholder.

118. From the prudent person principle point of view, undertakings will still have the duty to monitor the ESG strategy of these funds to ensure it continues to reflect policyholders' preferences. Including explicitly this requirement in the Solvency II Delegated Regulation will also clearly provide the competent insurance supervisor with the legal hook to analyse how policyholders' preferences are reflected and how they are integrated in the investment strategy and decisions of undertakings.

119. To clarify this link between Solvency II and IDD, EIOPA proposes to include a recital. This recital should clarify the meaning of the term "where relevant", indicating that ESG preferences should be reflected in the investments where ESG preferences are expressed as part of product oversight and governance arrangements.

<u>On the underwriting policy</u>

120. If one considers that sustainability risks are relevant in analysing an asset in which an insurance undertaking is investing, then, symmetrically, these sustainability risks would also be relevant in analysing the terms under which an insurance contract are offered: the underwriting policy.



121. EIOPA believes that due consideration should also be given to sustainability risks with respect to the investment as well as the underwriting policy. Sustainability risks may impact on underwriting and investment, leading potentially to an asset-liability mismatch including for example through the risk of poor asset performance where insurers invest long term in unsustainable investments, the risk of increasing frequency/severity of climate related events. The risk of increasing costs of reinsurance/or lack of reinsurance for climate related events, the risks attached to alternative risk transfer/mitigation mechanisms when applied to climate related risks – e.g. Cat Bonds and eventually the societal risk caused by increasing levels of un-insurability for some customers (e.g. flood-prone customers) may specifically impact on the underwriting.

122. Typically in the case of transport insurance, construction insurance or liability insurance, the policyholder and its claims may be affected by sustainability risks. Solvency II does not regulate the pricing of insurance contracts, but provides requirements on the role of the actuarial function with regards to the underwriting policy.

123. All risks and expected future developments would then be expected to be included in the best estimate calculation, as provided already by Article 29 of the Solvency II Delegated Regulation. Hence, (re)insurers should actively integrate sustainability risks in their underwriting process. Guidance is being developed on how this can be implemented, for example in the context of the UN Environment's Principles for Sustainable Insurance.

124. The actuarial function is required to express an opinion on the underwriting policy; this opinion shall include considerations on the effect of inflation, legal risk or change in the composition of the undertaking's portfolio, among other aspects.

Technical Advice

Policy proposals on operating conditions

- New article in the Solvency II Delegated Regulation, Chapter IX, new Section 6:

Section 6 Investments

Article 275bis

Integration of sustainability risks in the prudent person principle.

"1. Within the prudent person principle, insurance and reinsurance undertakings shall take into account sustainability risks when assessing the security, quality, liquidity, and profitability of the portfolio as a whole.

2. Without prejudice to paragraph 1, insurance and reinsurance undertakings shall take into account the potential long-term impact of their investment strategy and decisions on sustainability factors and, where relevant, insurance undertakings shall reflect the environmental, social and governance preferences of the target market identified according to Article 25 of the Directive 2016/97."

- New recital in the Solvency II Delegated Regulation:

"**(xx) Insurance undertakings should reflect the environmental, social and governance preferences of policyholders and beneficiaries in their investment portfolio where these preferences are relevant for the target market identified according to Article 25 of the Directive 2016/97 and Article 5 of the Commission Delegated Regulation 2017/2358**."

- Solvency II Delegated Regulation to be amended as follows:

Article 272

Actuarial function

(…)

6. Regarding the underwriting policy, the opinion to be expressed by the actuarial function in accordance with Article 48(1)(g) of Directive 2009/138/EC shall at least include conclusions regarding the following considerations:

(b)the effect of inflation, legal risk, **sustainability risks**, change in the composition of the undertaking's portfolio, and of systems which adjust the premiums policy-holders pay upwards or downwards depending on their claims history (bonus-malus systems) or similar systems, implemented in specific homogeneous risk groups;

(…)

3.3 Risk management

Extract from the European Commission's request for advice:

"In line with the Delegated Acts adopted under Article 51(4) of the UCITS Directive, Article 50(1)(a) and (b) of the Solvency II Directive, Articles 15(5) and 19(11) of

AIFMD and Article 16(12) of MiFID II risk management systems or procedures for risk assessment should be in place to monitor risks to which they are exposed. Financial market participants must employ risk-management processes which enable them to measure and manage at any time the risk of the positions and their contribution to the overall risk profile. Risk assessments should consider both financial and relevant sustainability risks. The valuation processes should therefore ensure a proper degree of consideration of relevant/material sustainability risks. The technical advices should describe the elements needed to ensure that financial market participants take into account sustainability risk effectively as well as the tasks to be fulfilled by the relevant functions, such as risk management function, in this respect."

125. With respect to risk management, the relevant articles of the Solvency II Delegated Regulation include: article 259 (risk management system), article 260 (risk management areas), article 262 (overall solvency needs) and article 269 (risk management function).

126. For the risk management function, please refer to the "organisational requirements" part of this advice.

Analysis

Risk management system and areas

127. As part of the Solvency II requirements on governance, insurance and reinsurance undertakings are requested to have in place an effective risk-management system comprising strategies, processes and reporting procedures necessary to identify, measure, monitor, manage and report the risks to which they are or could be exposed.

128. The Solvency II Directive provides that at least the following areas should be covered by the risk management system: underwriting and reserving, asset-liability management, investment, liquidity and concentration risk management, operational risk management and reinsurance and other risk-mitigation techniques. The Solvency II Delegated Regulation specifies the content of the risk management policies in all these areas.

129. From a practical implementation point of view, EIOPA believes that undertakings should consider how sustainability risks could materialise within each area of the risk management system.

130. Furthermore, given the context of this call for advice, given that sustainability risks are to be included in investment decision and insurance distribution processes, it appears essential that the policy on investment risk management describes the actions to be taken by the insurance and reinsurance undertakings to ensure that sustainability risks relating to the investment portfolio are properly managed. This also ensures consistency with Article 25 of the IORP II Directive on the risk management system according to which ESG risks shall be covered for the whole investment portfolio and IORPs are expected to manage these risks.

131. In particular in the case of climate-related risk, it would be expected that both physical and transition risks are considered. For instance, please refer to the Financial Stability Board "Task force on climate-related financial disclosures"[16], which divides climate-related risks into "two major categories: (1)

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

risks related to the transition to a lower carbon economy and (2) risks related to the physical impacts of climate change".

132. Sustainability risks relating to the investment portfolio could also affect other risk management areas. For instance, one could assess that an investment in an asset with sustainable activities would be easier to sell, i.e. more liquid, due to market preferences towards sustainable investment. Another area where sustainability risks relating to the investment portfolio appear relevant is concentration risk management. There are different types of concentration: for instance on a group, on a sector, on a geographical area. There could also be concentration in investments that would all be particularly sensitive to sustainability risks. Therefore EIOPA is proposing to add a new paragraph so that all policies on other relevant areas than investment risk reflect as well sustainability risks.

133. As referred to before, sustainability risks could also affect the liabilities of insurance and reinsurance undertakings' balance sheets. For example, an increase in environmental risks may impact on losses, or would require additional data to be considered in the underwriting process. Therefore EIOPA also proposes to include sustainability risks under the "underwriting and reserving" risk management area.

134. EIOPA considers that the inclusion of reference to sustainability risks in the Article 260 "Risk management areas" is sufficient to allow the risk management system to appropriately consider these risks. Article 259 "Risk management system" refers to the risk management strategy and the written policies. It does not appear necessary to include a further reference in that article.

ORSA

135. The ORSA has become a key element of the risk management system of insurance and reinsurance undertakings. Article 45 of the Solvency II Directive provides that the ORSA shall at least include an assessment of the overall solvency needs, of the compliance, on a continuous basis, with the capital requirements and of the significance with which the risk profile of the undertaking deviates from the assumptions underlying the Solvency Capital Requirements.

136. The Solvency II Delegated Regulation further specifies the assessment to be conducted on the overall solvency needs. It provides that the assessment shall be forward-looking and a set of minimum elements to be included are provided.

137. Article 262 of the Delegated Regulation specifies, in particular, that the assessment due to changes in the risk profile should be analysed considering external risks to the insurance or reinsurance undertaking. The economic and financial environment is mentioned as an example.

138. Paragraph 2 of Article 262 also refers to the "risks the undertaking faces in the long-term". There is no denying that this is relevant for sustainability risks. In particular, the development in the long term of climate change will have a material impact on insurance and reinsurance undertakings' business and risk profile.

139. Article 28 of the IORP II Directive on the "own-risk assessment" specifically mentions ESG factors and, in particular risks related to climate change, as an element to be considered in the own risk assessment (ORA) of IORPs.

140. Given the key role of ORSA in Solvency II and in insurance and reinsurance undertakings' risk management, given its forward-looking and long-term aspect and, given the objective to ensure cross-sectoral consistency, EIOPA believes

that Article 262 of the Delegated Regulation should include a reference to sustainability risks.

141. The assessment of the overall solvency needs is expected to provide a quantitative estimation of these needs. EIOPA has noticed that science and financial institutions have, so far, focused their attention on climate-related risks and climate change risks. In this area in particular, scenarios and projections have been quantified. Of course, all sustainability risks may be relevant to a specific insurance and reinsurance undertaking. However, in EIOPA's view, climate-related risks and climate change risks are particularly relevant. Given the availability of scenarios for climate change risks, EIOPA has considered that mentioning this risk explicitly would make sense and help undertakings to quantify their overall solvency needs.

142. It should be noted that in accordance with Article 45 of the Solvency II Directive, for the purpose of the overall solvency needs assessment, the undertakings shall have in place processes which are proportionate to the nature, scale and complexity of the risks inherent in its business and which enable it properly identify and assess the risks it faces in the short and long term and to which it is or could be exposed.

143. In application of the proportionality principle, qualitative assessment might be sufficient in view of the proportionality principle for insurers not significantly exposed to sustainability risks but quantitative assessment (at least regarding climate-related risks) would be the general rule.

Technical Advice

Policy proposals for risk management

Solvency II Delegated Regulation to be amended as follows:

Article 260

Risk management areas

"1. The areas referred to in Article 44(2) of Directive 2009/138/EC shall include all of the following policies:

(a) Underwriting and reserving:

(i) actions to be taken by the insurance or reinsurance undertaking to assess and manage the risk of loss or of adverse change in the values of insurance and reinsurance liabilities, resulting from inadequate pricing and provisioning assumptions **due to internal or external factors, including sustainability risks**;

(…)(c) Investment risk management:

(…)

(vi) actions to be taken by the insurance or reinsurance undertaking to ensure that sustainability risks relating to the investment portfolio are properly identified, assessed and managed.

(…)

1.a The policies on the areas referred to in paragraph 1 shall include, where appropriate, consideration of sustainability risks.

Article 262

Overall solvency needs

"1. The assessment of an insurance or reinsurance undertaking's overall solvency needs, referred to in Article 45(1)(a) of Directive 2009/138/EC shall be forward-looking and include all of the following elements:

(a) risks the undertaking is or could be exposed to, including operational risks, taking into account potential future changes in its risk profile, due to:

i. the undertaking's business strategy,

ii. the economic and financial environment, **or**

iii. **the effect of sustainability risks, including climate change**~~, including operational risks~~ ;

(…)

4 Technical advice on delegated acts under the IDD

144. The relevant provisions in the Insurance Distribution Directive are:

Empowerment	IDD	Delegated Regulation
Article 28(4)(a) and (b)	Article 27 Prevention of conflicts of interest Article 28 Conflicts of interest	Article 3 - Identification of conflicts of interest Article 4 - Conflicts of interest policy Article 5 - Procedures and measures under the conflicts of interest policy Article 6 – Disclosure Article 7 - Review and record keeping
Article 25(2)	Article 25 - Product oversight and governance requirements	Article 4 – Product approval process Article 5 - Target market Article 6 - Product testing Article 7 - Product monitoring and review Article 8 - Distribution channels Article 10 - Product distribution arrangements Article 11 - Informing the manufacturer

4.1 Organisational requirements - Conflicts of interest

Extract from the European Commission's Request for Advice

"EIOPA and ESMA are invited to provide technical advices on corporate governance mechanisms within the organisation of the financial market participants and investment and insurance advisors, including, where relevant, but not limited to:

- measures and policies specifically considering types of conflict of interest that might arise in relation to sustainability considerations and the steps to identify, prevent, manage and disclose them."

Analysis

145. Conflicts of interest are explicitly addressed as part of the organisational requirements in the IDD. Insurance undertakings and insurance intermediaries have to maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps designed to prevent conflicts of interest from adversely affecting the interests of its customers.

146. Within its mandate to EIOPA, the Commission clarified that its objective is to explicitly require the integration of sustainability risks , in the investment decision or insurance distribution processes as part of duties towards customers.

147. EIOPA considers that the integration of sustainability risks within the IDD requirements is better done through a high-level principle-based approach, similar to that already followed for all other relevant risks (e.g. credit risk, market risk, liquidity risk).

148. Detailed prescription would enhance the risk of regulatory arbitrage by firms and could result – at this stage - in regulatory errors, especially considering that legislative proposals are being developed in this area; for example the Commission's legislative proposals on:

- The establishment of a framework to facilitate sustainable investments;
- Disclosures relating to sustainable investments and sustainability risks; benchmarks; and
- The establishment of a unified EU classification system of sustainable economic activities ('taxonomy').

149. The expanding range of activities that many insurance intermediaries and undertakings carry on simultaneously has increased the potential for conflicts of interest between those different activities and the interests of their customers. It is, therefore, the aim of the IDD to ensure that such conflicts of interest do not adversely affect the interests of the customer. Customers may not only pursue specific financial objectives, but may also have non-financial objectives, including ESG preferences that need to be considered by insurance intermediaries and insurance undertakings providing insurance distribution services. EIOPA has a broad understanding of what customers' interests may consist of, not limited to financial objectives, but also including interests linked to the ESG preferences which customers pursue when investing their money.

150. Accordingly, when identifying conflicts of interest, insurance intermediaries and insurance undertakings should also consider whether conflicts arise with regard to the ESG preferences of their customers. Situations where this could be the case, include defining the investment strategy for the customers' assets and the exercise of shareholder rights in companies in which the customers' assets with ESG preferences are invested. Another example is defining the investment strategy for underlying assets e.g. in case of pooled investments of customers pursuing different investment or ESG objectives. A further situation where conflicts of interest may arise is the case where different charging and remuneration structures exist (such as different rates of commissions paid) either for the underlying assets, or the insurance-based investment products sold to the customer. Conflicts of interest should also be analysed with regard to payment structures between insurance undertakings and outsourced managers for the management of the investments, as well as existing sustainability targets which may not be suitable for all customers.

151. In line with Article 28, IDD, where insurance distribution is carried out in relation to insurance-based investment products, insurance undertakings and insurance intermediaries should take all appropriate steps to identify and manage

any conflicts of interest that may arise in relation to ESG considerations and in the course of any insurance distribution activities. This is in particular, but not limited to cases where customers have explicitly informed the insurance undertaking or insurance intermediary about their ESG preferences.

152. In the course of providing insurance distribution activities, distributors may face situations in which divergent customer interests arise from sustainability considerations. This can, in particular, be the case, if a customer has ESG preferences which are not compatible with his own risk tolerance or his ability to bear losses due to his financial situation. Although these interests are divergent, the divergence is caused by the customer's own diverging interests, but not resulting from a conflict with the interests of another person, such as the insurance intermediary providing the insurance distribution activities. Therefore, these situations are not addressed in the context of the conflicts of interests' regime, but within the context of the distributor's assessment requiring that the different objectives and interests of the customers are taken into account when recommending an insurance product which is suitable for the customer.

153. In addition to an amendment to the legal provisions of the IDD Delegated Regulation governing the identification of conflicts of interest, EIOPA also considers it useful to add a recital in the IDD Delegated Regulation on the topic of 'conflicts of interest', in order to clarify that when identifying the types of conflicts of interest whose existence may damage the interests of a customer, insurance undertakings and insurance intermediaries should include those conflicts of interest that stem from taking into account ESG considerations. EIOPA believes that the addition of the recital is important to ensure that insurance undertakings and insurance intermediaries have in place appropriate arrangements to ensure that the inclusion of ESG considerations in the advisory process does not lead to mis-selling practices and does not damage the interests of the customer. Finally, considering the relevance of these conflicts of interest, insurance undertakings and insurance intermediaries would be expected to include a clear reference in their conflict of interests' policy on how they are identified and managed.

154. It should be noted that the Commission's proposal for a Delegated Regulation as regards the integration of ESG considerations and preferences into the investment advice for insurance-based investment products, defines in Article 1(1), the term "ESG preferences" as meaning *"a customer's or potential customer's choice as to whether and which environmentally sustainable investments, social investments or good governance investments should be integrated into his/her investment strategy"*. The Article further defines "ESG considerations" as meaning *"any factor associated with environmentally sustainable investments, social investments or good governance investments, or a combination of those factors"*.[17] Although these definitions may change in the further legislative procedure, they should also apply in the context of this Technical Advice and the proposals on organisational requirements and Product Oversight and Governance as laid down below.

Technical Advice

[17] COM's proposal for a Delegated Regulation amending Regulation (EU) 2017/2359 as regards the integration of Environmental, Social and Governance (ESG) considerations and preferences into the investment advice for insurance-based investment products can be found here: http://ec.europa.eu/finance/docs/level-2-measures/idd-delegated-act-2018_en.pdf

Policy proposals for conflicts of interest

IDD Delegated Regulation 2017/2359 to be amended as follows:

New recital 3 (bis) of the IDD Delegated Regulation to be introduced

When identifying the types of conflicts of interest whose existence may damage the interests of a customer, insurance undertakings and insurance intermediaries should also take into account those that may arise in relation to ESG considerations.

Where insurance distribution is carried out in relation to insurance-based investment products, insurance undertakings and insurance intermediaries should take all appropriate steps to identify and manage any conflicts of interest that may arise in relation to ESG considerations and in the course of carrying out any insurance distribution activities. This is, in particular, but not limited to cases where customers have explicitly informed the insurance undertaking or insurance intermediary about their ESG preferences. This is clarified in the proposed wording with the amendment "where relevant". However, conflicts of interest may also arise with regard to customers which do not have ESG preferences, e.g. in the case of pooled investments where assets of customers with and without ESG preferences are managed.

Further non-exhaustive examples of conflicts of interest in the context of ESG considerations include remuneration and incentive structures for external asset managers and proxy advisors as well as remuneration and incentives schemes to promote the distribution of ESG products or to achieve specific sustainability targets of the insurance undertaking and which are different from the ESG preferences of the target market.

Insurance undertakings and insurance intermediaries should have in place appropriate arrangements to ensure that the inclusion of ESG considerations in the advisory process does not lead to mis-selling practices.

Article 3(1):

"1. For the purposes of identifying, in accordance with Article 28 of Directive (EU) 2016/97, the types of conflicts of interest that arise in the course of carrying out any insurance distribution activities related to insurance-based investment products and which entail a risk of damage to the interests of a customer**, including the interest in attaining ESG objectives (where relevant)**, insurance intermediaries and insurance undertakings shall assess whether they, a relevant person or any person directly or indirectly linked to them by control, have an interest in the outcome of the insurance distribution activities, which meets the following criteria:

(a) it is distinct from the customer's or potential customer's interest in the outcome of the insurance distribution activities;

(b) it has the potential to influence the outcome of the distribution activities to the detriment of the customer.

Insurance intermediaries and insurance undertakings shall proceed in the same way for the purposes of identifying conflicts of interest between one customer and another."

4.2 Product Oversight and Governance

Extract from the European Commission's request for advice

"The conditions to identify a target market in Commission Delegated Directive 2017/593 adopted under Articles 16(12) and 24(13) of MiFID II and Commission Delegated Regulation 2017/2358 adopted under Article 25(2) of IDD do not explicitly establish the details of the integration of sustainability factors by investment firms manufacturing financial instruments and their distributors and insurance undertakings, intermediaries manufacturing insurance products for sale to customers and insurance distributors referred to in Article 2 of Commission Delegated Regulation 2017/2358 respectively.

In order to ensure that products and, where relevant, the related services are offered in the interest of clients and that sustainability factors are taken into account in the target market assessment, EIOPA and ESMA should analyse the relevant changes to Commission Delegated Regulation 2017/2358, in particular Articles 5 to 11, and Commission Delegated Directive 2017/593, in particular Articles 9(9), 9(11), 10(2) and 10(5).

This approach should duly consider the existing ESMA Guidelines on MiFID II product governance requirements that already provide a good indication on how sustainability factors should be taken into account when identifying the target market. ESMA should ensure that changes to the definition of the target market do not lead to miss-selling practices, e.g. by clearly identifying investment objectives and ESG constraints. In addition, the possibility to identify a target market for clients without ESG preferences should be maintained. When establishing a requirement to consider sustainability factors under the client's objectives and needs, EIOPA and ESMA should also take existing practices for the identification of the target market into account.

The technical advices should be consistent with each other, while recognizing, where relevant, the difference in terminology used by IDD and MiFID II. The technical advices should list in mapping the provisions of delegated acts that should be amended."

Analysis

155. The objective of the IDD Product Oversight and Governance requirements is to ensure that firms, which manufacture and distribute insurance products, act in the customer's best interests during all stages of the lifecycle of products or services.

156. The Commission's Call for Advice refers to the need to establish details for insurance undertakings and manufacturing insurance intermediaries to integrate sustainability factors when identifying the target market of the product. EIOPA notes that the Commission has published legislative proposals to create a common EU classification or taxonomy for products fulfilling ESG factors. However, taking into account that the finalisation of this taxonomy will likely occur after the amendments to the product oversight and governance arrangements will have taken effect, insurance undertakings will have to clearly specify which criteria they apply to define ESG preferences, while taking into account current market standards. Until the finalisation of the common EU taxonomy by the Commission, market participants will be required to identify ESG classification standards they consider to be appropriate in the context of the product oversight and governance requirements.

157. It should also be noted that insurance undertakings are not required to consider ESG factors in the product approval process of any insurance product, but only if the insurance product is supposed to have an ESG profile. Hence, ESG preferences have to be considered only where they are relevant for the product design. This is clarified in the proposed wording by introducing the caveat "where relevant". A recital to be added to the IDD Delegated Regulation has also been included to better explain the purpose of the notion of "where relevant".

158. EIOPA is of the view that ESG considerations not only play a role with regard to insurance-based investment products and pure protection life insurance products, but may also be relevant for non-life insurance products. This view was not only confirmed by the feedback of respondents to the public consultation, but is also justified in view of current market practices where non-life insurance products are already being advertised with ESG features already today. Therefore, EIOPA considers it appropriate and important not to exclude non-life insurance products from the scope of the proposed policy proposals on product oversight and governance. Although non-life insurance products, in comparison to insurance-based investment products, typically do not offer the possibility of a long-term investment for customers, ESG considerations shall also be taken into account by the insurance undertakings when defining the investment strategy and deciding on their asset allocation.

159. Furthermore, the Commission's Call for Advice states that the definition of the target market should not lead to mis-selling practices. For this purpose, it might be important to clearly define the investment objectives and constraints resulting from ESG considerations.

160. Sustainability factors may not only play a role in the context of the target market assessment, but also with regard to related duties such as product testing and product monitoring and review, as well as with regard to distribution arrangements. For example, testing may require assessing whether the underlying assets of an insurance-based investment product with ESG objectives are eligible and whether and how changes of the underlying assets may influence or contradict the ESG objectives of the insurance product. Reviewing the insurance products with regard to the ESG factors may include the assessment whether the composition of the underlying assets is still in line with the identified target market or whether modifications are required to ensure consistency between the target market and these assets.

161. The Commission has also emphasised in the request for technical advice that the possibility to identify a target market for clients without ESG preferences should be maintained. This possibility should be distinguished from the question whether manufacturers of insurance products which are not designed for customers with ESG preferences, should be similarly obliged to state that the respective insurance products do not pursue ESG objectives. However, considering that the legislative process regarding the taxonomy for the classification of ESG investment is still ongoing, EIOPA considers it as premature to require manufacturers of insurance products to do so.

162. Whereas ESG preferences are above all relevant in relation to the target market assessment of insurance-based investment products, EIOPA is of the view, that ESG factors might also be considered in relation to other insurance products, including non-life insurance products e.g. long term insurance contracts such as occupational disability insurance products. This approach would allow manufacturers to consider the ESG preferences of their customers not only in the context of insurance-based investment products, but also, where relevant, with regard to other insurance products.

Technical Advice

Policy proposals for Product Oversight and Governance

IDD Delegated Regulation 2017/2358 to be amended as follows:

New recital 5 (bis) of the IDD Delegated Regulation to be introduced:

Manufacturers should consider ESG factors in the product approval process of each insurance product and the other product oversight and governance arrangements if the insurance product is intended to be distributed to customers seeking insurance products with an ESG profile. For the sake of clarification, the wording states for that purpose "as well as the ESG profile of the product (where relevant)" and "including the ESG preferences of the target market (where relevant)" in this Regulation.

Considering that the target market should be defined at a sufficient granular level, a general statement that an insurance product has an ESG profile is not sufficient. The target market should specify for which group of customers with specific ESG preferences the insurance product is supposed to be distributed.

Article 4(3):

The product approval process shall:

(a) ensure that the design of insurance products meets the following criteria:

(i) it takes into account the objectives, interests and characteristics of customers, **including the ESG preferences of the target market (where relevant);**

Article 5(1), (2), (3) and (4):

1. The product approval process shall, for each insurance product, identify the target market and the group of compatible customers. The target market shall be identified at a sufficiently granular level, taking into account the characteristics, risk profile, complexity and nature of the insurance product, **as well as the ESG profile of the product (where relevant).**

2. Manufacturers may, in particular with regard to insurance-based investment products, identify groups of customers for whose needs, characteristics and objectives, **including their ESG preferences (where relevant),** the insurance product is generally not compatible.

3. Manufacturers shall only design and market insurance products that are compatible with the needs, characteristics and objectives, **including the ESG preferences (where relevant)** of the customers belonging to the target market. When assessing whether an insurance product is compatible with a target market, manufacturers shall take into account the level of information available to the customers belonging to that target market and their financial literacy.

4. Manufacturers shall ensure that staff involved in designing and manufacturing insurance products has the necessary skills, knowledge and expertise to properly understand the insurance products sold and the interests, objectives, **including the ESG preferences (where relevant),** and characteristics of the customers belonging to the target market.

Article 6(1) and (2):

1. Manufacturers shall test their insurance products appropriately, including scenario analyses where relevant, before bringing that product to the market or significantly adapting it, or in case the target market has significantly changed. That product testing shall assess whether the insurance product over its lifetime meets the identified needs, objectives, **including the ESG preferences (where relevant)**, and characteristics of the target market. Manufacturers shall test their insurance products in a qualitative manner and, depending on the type and nature of the insurance product and the related risk of detriment to customers, quantitative manner.

2. Manufacturers shall not bring insurance products to the market if the results of the product testing show that the products do not meet the identified needs, objectives, **including the ESG preferences (where relevant)**, and characteristics of the target market.

Article 7(1):

Manufacturers shall continuously monitor and regularly review insurance products they have brought to the market, to identify events that could materially affect the main features, the risk coverage or the guarantees of those products. They shall assess whether the insurance products remain consistent with the needs, characteristics and objectives, **including the ESG preferences (where relevant)**, of the identified target market and whether those products are distributed to the target market or is reaching customers outside the target market.

Article 8(3):

The information referred to in paragraph 2 shall enable the insurance distributors to:

(a) understand the insurance products;

(b) comprehend the identified target market for the insurance products;

(c) identify any customers for whom the insurance product is not compatible with their needs, characteristics and objectives, **including the ESG preferences of the target market (where relevant)**;

(d) carry out distribution activities for the relevant insurance products in accordance with the best interests of their customers as prescribed in Article 17(1) of Directive (EU) 2016/97.

Article 10(2):

The product distribution arrangements shall:

(a) aim to prevent and mitigate customer detriment;

(b) support a proper management of conflicts of interest;

(c) ensure that the objectives, interests and characteristics of customers **including the ESG preferences of the target market (where relevant)** are duly taken into account.

Article 11:

Insurance distributors becoming aware that an insurance product is not in line with the interests, objectives and characteristics of its identified target **market (including their ESG preferences (where relevant))** or becoming aware of other product-related circumstances that may adversely affect the customer shall

promptly inform the manufacturer and, where appropriate, amend their distribution strategy for that insurance product.

Annex I - Impact Assessment

1. Procedural aspects and consultation with stakeholders

The Commission has requested EIOPA and ESMA to provide technical advices on potential amendments to, or introduction of, delegated acts under Directive 2009/65/EC (hereafter, UCITS Directive), Directive 2011/61/EU (hereafter, AIFMD), Directive 2014/65/EU (hereafter, MiFID II), Directive 2009/138/EC (hereafter, Solvency II Directive) and Directive 2016/97 (hereafter, IDD) with regard to the integration of sustainability risks and sustainability factors.

According to the Commission's request, EIOPA and ESMA should justify the technical advice by identifying, where relevant, a range of technical options and undertaking an evidenced assessment of the costs and benefits of each. Where administrative burdens and compliance costs on the side of the industry could be significant, EIOPA should, where possible, quantify these costs.

In particular, EIOPA will provide technical advice on potential amendments to, or introduction of, delegated acts under Solvency II and IDD together with an analysis of costs and benefits, which is undertaken according to an Impact Assessment methodology.

EIOPA considered that, in view of the novelty of the topic, an early involvement of market participants and stakeholders is useful to build up a suitable "evidence base" for the thorough development of robust policy recommendations. For such purpose, an on-line survey was launched between 17th September and 3rd October 2018 seeking stakeholders' views and current approaches regarding the consideration of sustainability factors (i.e. environmental, social and governance factors)[18].

In addition, the draft technical advice and its impact assessment was subject to a public consultation. Stakeholders' responses to the public consultation were duly analysed and served as a valuable input for the revision of the draft technical advice and its impact assessment.

2. Problem definition

There has been a recent increase in emphasis on sustainable development, including its implication for financial markets, in particular the consequences of the adoption of the Paris Agreement on climate change. Several aspects of sustainable finance appear in particular relevant for insurers and for pension funds. Not only because of their weight in our economy, but also because they need to consider, by virtue of their long-term obligations, the environment in which they will operate in the distant future.

[18] https://eiopa.europa.eu/Pages/Surveys/Online-survey-on-the-integration-of-sustainability-risks-and-sustainability-factors--in-the-delegated-acts.aspx

In this advice and in line with Commission impact assessment[19], EIOPA has operationalised sustainability by referring to the so-called environmental, social and governance ("ESG") factors.

According to the Commission, the integration of ESG factors in the investment decision and insurance distribution process in the EU financial market, is very low[20]. The Commission explains that "*this seems to be partially due to insufficient legal certainty as to what is expected from relevant financial market participants and investment and insurance advisors. Some of these entities do not analyse sustainability risks and their impacts on returns either because they do not have the tools and the sustainability-related knowledge or because they confuse the integration of sustainability risks with ethical investing, which implies accepting lower risk-adjusted returns, which would not be in the best interest of their clients. In addition, certain investors have explicit ESG preferences that are not sufficiently addressed. For these investors, it is essential that their personal values are considered in the insurance distribution process and reflected in the investment product selection".*

In its Call for advice, the Commission has identified specific areas in which market participants should adapt their procedures, which are:

- organisational requirements,
- operating conditions, in particular investment strategy and asset allocation,
- risk management, and
- the target market assessment.

Baseline scenario.

When analysing the impact from proposed policies, the Impact Assessment methodology foresees that a baseline scenario is applied as the basis for comparing policy options. This helps to identify the incremental impact of each policy option considered. The aim of the baseline scenario is to explain how the current situation would evolve without additional regulatory intervention.

The baseline is based on the current situation of EU insurance and reinsurance markets.

The table below summaries the relevant provisions that have been considered as part of the baseline.

Solvency II	Articles 40-50, 132-135 of the Directive Articles 258-275 of the Delegated Regulation EIOPA Guidelines on system of governance
IDD	Articles 25 and 28 of the Directive

[19] See Impact Assessment Report accompanying the Commission legislative proposals on sustainable finance of 24 May 2018 (https://ec.europa.eu/info/publications/180524-proposal-sustainable-finance_en)
[20] See Commission Impact Assessment Report

	Articles 4-10 of the Delegated Regulation on product oversight and governance requirements[21] Articles 3-7 of the Delegated Regulation on information requirements and conduct of business rules applicable to the distribution of insurance-based investment products[22]
Sustainable Finance	• Commission's proposals of 24th May 2018[23]: o Proposal for a Regulation of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment o Proposal for a Regulation of the European Parliament and of the Council on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341 o Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1011 on low carbon benchmarks and positive carbon impact benchmarks

3. Objectives

The main objective of the technical advice is to explicitly require the integration of sustainability factors and risks in the investment decision or insurance distribution processes as part of duties towards policyholders, customers and/or beneficiaries.

This objective is connected with the following aims stated in the Commission "Action Plan - Financing Sustainability Growth" [24]:

- reorient capital flows towards sustainable investment in order to achieve sustainable and inclusive growth;
- manage financial risks stemming from climate change, resource depletion, environmental degradation and social issues; and
- foster transparency and long-termism in financial and economic activity

Other relevant objectives, which have been considered by EIOPA in developing its advice include:

- coherence with current requirements under Solvency II and IDD provisions;
- proportionality, taking into account the size, nature, scale and complexity of insurers' activities; and

[21] Commission Delegated Regulation (EU) 2017/2358 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors

[22] Commission Delegated Regulation (EU) 2017/2359 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to information requirements and conduct of business rules applicable to the distribution of insurance-based investment products

[23] See link: https://ec.europa.eu/info/publications/180524-proposal-sustainable-finance_en

[24] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52018DC0097

- cross-sectoral consistency, in particular with respect to the target market assessment and with the IORP II Directive.

These objectives are aligned with the aim of Solvency II to improve risk management of European insurers, with the aim of the IDD to mitigate the risk of customer detriment from unsuitable and/or poorly designed products and with the general common objective of both directives to ensure policyholder protection.

4. Policy options

With the intention to meet the objectives set out in the previous section, EIOPA has analysed different policy options throughout the policy development process. The section below reflects the most relevant policy options that have been considered in relation to different policy issues related to Solvency II and IDD respectively.

With respect to Solvency II, the following policy issues have been discussed:

1. Scope of the governance requirements
2. Organisational requirements
3. Reference to sustainability risks under the prudent person principle
4. Consideration of long-term impact of investments on sustainability factors
5. Consideration of policyholders and beneficiaries' ESG preferences
6. Risk management

With respect to IDD, the following policy issues have been discussed:

7. Conflicts of interest
8. Target market assessment- scope of products
9. Target market assessment- scope of POG

Policy issue 1- Scope of the governance requirements

Whether the amendments to the Solvency II requirements on system of governance for integration of sustainability risks in the decisions processes should only apply to life insurers or also to non-life insurers and reinsurers.

- Option 1.1 - New requirements applicable to life insurance undertakings
- Option 1.2 - New requirements applicable to all insurance and reinsurance undertakings

Policy issue 2- Organisational requirements

- Option 2.1 - Flexibility
- Option 2.2 - Detailed provisions

Policy Issue 3 –Reference to sustainability risks under the prudent person principle

Whether the prudent person principle should make explicit reference to sustainability risks.

- Option 3.1 – No explicit reference to sustainability risks in the prudent person principle
- Option 3.2 – Explicit reference to sustainability risks in the prudent person principle

Policy Issue 4 – Consideration of long-term impact of investments

Whether undertakings should take into account the potential long-term impact of their investment strategy and decisions on sustainability factors

- Option 4.1 – Undertakings should take into account the potential long-term impact of their investment strategy and decisions on sustainability factors
- Option 4.2 – Undertakings should not take into account the potential long-term impact of their investment strategy and decisions on sustainability factors

Policy Issue 5 - Consideration of policyholders and beneficiaries' ESG preferences

Whether the asset allocation should reflect the ESG preferences of policyholders and beneficiaries

- Option 5.1 - The asset allocation should reflect policyholders and beneficiaries' ESG preferences where the target market is insurance products with ESG profile, only
- Option 5.2 – The asset allocation should reflect policyholders and beneficiaries' ESG preferences across all products - irrespective of the target market of the product
- Option 5.3 – The asset allocation should not reflect policyholders and beneficiaries' ESG preferences

Policy Issue 6 – Risk management

Whether undertakings should take into account sustainability risks related to their investments and also sustainability risks related to their liabilities

- Option 6.1 Consideration of sustainability risks for investments only
- Option 6.2 Consideration of sustainability risks for investments and underwriting

Policy issue 7 - Conflicts of interest

Measures and policies specifically considering types of conflict of interest that might arise in relation to sustainability considerations and the steps to identify, prevent, manage and disclose them

- Option 7.1 - introducing a reference to ESG considerations in a Recital of the Delegated Regulation, only
- Option 7.2 – introducing a reference to ESG considerations in Article 3 of the Delegated Regulation (EU) 2017/2359
- Option 7.3 – introducing a reference to ESG considerations in all provisions on conflict of interest of Delegated Regulation (EU) 2017/2359

Policy issue 8 - Scope of insurance products covered in the target market assessment

- Option 8.1 - Narrow scope of application including life insurance products and insurance-based products, only
- Option 8.2 - Broad scope of application including all insurance products

Policy issue 9 - Target market assessment- scope of POG applicable

- Option 9.1 - Narrow scope limited to Article 5 (Target Market) of Delegated Regulation (EU) 2017/2358
- Option 9.2. - Broad scope including all POG requirements laid down in Delegated Regulation (EU) 2017/2358

Analysis of impacts

Policy issue 1- Scope of the governance requirements

Option 1.1 - New requirements applicable to life insurance undertakings

Benefits:

- Consistency with the scope of the Commission's call for advice.

Costs:

- Compliance costs only for life insurance undertakings.
- The narrower the scope of the requirements, the lower the costs for supervisory authorities to assess the compliance by concerned undertakings.
- Non-life insurers and reinsurers may disregard relevant sustainability risks that could affect their investments portfolio.

Option 1.2 - New requirements applicable to all insurance and reinsurance undertakings

Benefits:

- Coherence with the current requirements on system of governance in the Solvency II Delegated Regulation, equally applicable to all insurers and reinsurers.
- Since sustainability risks are risks that could affect as well the investments of non-life insurance undertakings and reinsurance undertakings

Costs:

- Compliance costs for all insurance and reinsurance undertakings
- The wider the scope of the requirements, the higher the costs for supervisory authorities to assess the compliance by concerned undertakings.

Policy issue 2 - Organisational requirements

Option 2.1 - Flexibility

Benefits:

- Proportionality aspects could be better considered.
- Lower compliance costs, allowing undertakings to consider sustainability risks without significant changes in their current organisational structure.

  Costs:

- Possible uncertainty on the practical implementation of the requirements, both for undertakings and supervisors.

Option 2.2 – Detailed provisions

Benefits:

- More clarity on the practical implementation of the requirements, both for undertakings and supervisors.

  Costs:

- Higher compliance costs for undertakings, which may be disproportionate for certain undertakings.

Policy Issue 3 –Reference to sustainability risks under the prudent person principle

Option 3.1 – No explicit reference to sustainability risks in the prudent person principle

Benefits:

- May limit the risk of imbalance in regulatory requirements caused by highlighting particular risks in an area which is still under development.
- May limit risk of promoting investments in particular assets and unintended consequences arising from it.

Costs:

- Undertakings would not be required to consider the sustainability risks and supervisors would not have the legal hook to assess the security, quality, liquidity, and profitability of the portfolio from a sustainability angle.

Option 3.2 – Explicit reference to sustainability risks in the prudent person principle

Benefits:

- Mandatory requirements could help to properly promote sustainable investments by insurers and reinsurers.

- This could also enhance the industry's responsiveness to the ecological and social environment of the customer, promoting the stewardship role of insurers in the economy as institutional investors

Costs:

- Deviating from a high-level principle-based approach would inappropriately emphasise sustainability risks and would cause an imbalance in the regulatory requirements.
- Strong mandatory requirements could increase the risk of stranded assets (those not considered sustainable), which would be to the detriment of financial stability.
- The requirement would go against the freedom of investment as stipulated in Article 133 of the SII Directive.

Policy Issue 4 – Consideration of long-term impact of investments

Option 4.1 – Undertakings should take into account the potential long-term impact of their investment strategy and decisions on sustainability factors

Benefits:

- Consistent with the principle of stewardship recognised in other regulatory action and initiatives[25], including the IORP II Directive.
- Adopting a non-binary approach to sustainable investments would help to reduce the risk of creating stranded assets.

Costs:

- Difficult to assess the impact, up-front or after the investment was made.

Option 4.2 – Undertakings should not take into account the potential long-term impact of their investment strategy and decisions on sustainability factors

Benefits:

- The sustainability risk assessment would be a more proportionate, strictly prudential assessment limited to the risks posed by sustainability factors to the undertaking

Costs:

- Transition risks could materialise by leading to sudden disinvestment in assets which are considered not sustainable by undertakings

Policy Issue 5 - Consideration of policyholders' ESG preferences

Option 5.1 - The asset allocation should reflect ESG preferences where the target market is insurance products with ESG profile, only

Benefits:

[25] See Directive 2017/828 of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement.

- As the preferences of policyholders and beneficiaries will be reflected through the suitability assessment in the product design of insurance contracts, these ESG preferences should also be reflected in the investment strategy and decisions of undertakings

Costs:

- From a prudential perspective, in an economic-risk based framework, undertakings should consider ESG factors and risks across the undertaking where these are relevant and in line with the principle of proportionality, not limited to product characteristics

Option 5.2 – The asset allocation should reflect preferences of policyholders across all products - irrespective of the target market of the product

Benefits:

- The assessment would be made in the general interest of all policyholders and/or beneficiaries, irrespective of the products' design

Costs:

- Assumptions on the preferences of the policyholders and beneficiaries would need to be made where these are not explicitly expressed.
- The requirement may be against (other) policyholders' primary interest in investment returns

Option 5.3 – The asset allocation should not reflect preferences of policyholders

Benefits:

- The assessment would be limited to a prudential risk assessment

Costs:

- Investments may not be made in the best interest of policyholders and/or beneficiaries, as requested by the prudent person principle.

Policy Issue 6 – Risk management

Option 6.1 - Consideration of sustainability risks for investments only

Benefits:

- Consistency with the scope of the Commission's call for advice.
- Lower compliance costs for undertakings compared with option 6.2.

Costs:

- Undertakings may disregard sustainability risks in their underwriting, potentially leading to inadequate pricing and reserving.

Option 6.2 – Consideration of sustainability risks for investments and underwriting

Benefits:

- Coherent with the total balance sheet approach of Solvency II, where assets and liabilities need to be valued in a market consistent manner.
- In particular relevant for non-life insurance and reinsurance undertakings, where sustainability risks will affect first their liabilities.

Costs:

- Higher compliance costs for undertakings compared to option 6.1.

Policy issue 7 - Conflicts of interest

Option 7.1 - introducing a reference to ESG considerations in a Recital of the Delegated Regulation only

Benefits:

- An explicit reference to ESG considerations in the context of conflict of interests minimises the risk of customer detriment resulting from conflicts not appropriately managed by distributors of insurance products.
- Provides guidance on the application of the rules of conflict of interest in the context of the distribution of insurance products with an ESG profile.

Costs:

- Raising little awareness of addressees of regulatory requirements as a reference would not be introduced in the legal text of the respective provisions in the Delegated Regulation.
- No binding effect as Recitals are not mandatory, but aim to provide further explanation and back ground information setting out the purpose of the legal provisions only.
- Implementation costs for insurance undertakings and insurance intermediaries distributing IBIPs.

Option 7.2 – introducing a reference to ESG considerations in Article 3 of Delegated Regulation (EU) 2017/2359

Benefits:

- An explicit reference to ESG considerations in the context of conflict of interests minimises the risk of customer detriment resulting from conflicts not appropriately managed.
- Including the reference in the legal text as such, introduces a mandatory and binding obligation for the addressees of the provision.

Costs:

- Conflicts of interests arising in the context of ESG considerations are only one possible source, hence reference could overemphasise and unbalance the legal drafting.
- Implementation costs for insurance undertakings and insurance intermediaries distributing IBIPs

Option 7.3 – introducing a reference to ESG considerations in all provisions on conflict of interest of Delegated Regulation (EU) 2017/2359

Benefits:

- An explicit reference to ESG considerations in the context of conflict of interests minimises the risk of customer detriment resulting from conflicts not appropriately managed.
- Including the reference in the legal text as such, introduces a mandatory and binding obligation for the addressees of the provision.

Costs:

- Conflicts of interests arising in the context of ESG considerations are only one possible source, hence reference could overemphasise and unbalance the legal drafting.
- Implementation costs for insurance undertakings and insurance intermediaries distributing IBIPs.

Policy issue 8 - Scope of insurance products covered in the target market assessment

Option 8.1 - Narrow scope of application including life insurance products and insurance-based investment products only

Benefits:

- Lower risk of mis-selling of life insurance products and insurance-based investment products to customers with ESG preferences.

Costs:

- ESG preferences of customers are not taken into account in the context of non-life insurance products.
- Until the development of a common EU taxonomy, standards for classification would need to be developed by the market, leading to inconsistent approaches and the risk of "Greenwashing" of insurance products due to lack of uniform and binding taxonomy.

- Implementation costs for insurance products manufacturers.

Option 8.2 - Broad scope of application including all insurance products

Benefits:

- Lower risk of mis-selling of insurance products to customers with ESG preferences.

Costs:

- Until the development of a common EU taxonomy, standards for classification would need to be developed by the market leading to inconsistent approaches and the risk of “Greenwashing” of insurance products due to lack of uniform and binding taxonomy.
- Higher implementation costs for manufacturers of insurance products.

Policy issue 9 - Target market assessment- scope of POG applicable

Option 9.1 - Narrow scope limited to Article 5 (Target Market) of Delegated Regulation (EU) 2017/2358

Benefits:

- Legal framework for distributors of insurance products to consider ESG considerations in the context of product design and distribution, promotes legal certainty and consistency.
- Lower risk of mis-selling of insurance products to customers with ESG preferences.

Costs:

- Lack of legal clarity and certainty about the application of POG requirements other than the target market assessment.
- Implementation costs for manufacturers of insurance products.

Option 9.2. - Broad scope including all POG requirements laid down in Delegated Regulation (EU) 2017/2358

Benefits:

- Legal framework for distributors of insurance products to consider ESG considerations in the context of product design and distribution, promotes legal certainty and consistency.
- Legal clarity and certainty about the applicability of other POG provisions than target market assessment.
- Enhanced level of consumer protection.

Costs:

- Higher implementation costs by manufacturers of insurance products

Comparing the options

Policy issue 1 - Scope of the governance requirements

EIOPA considers that the proposed amendments should be applicable to all insurance and reinsurance undertakings under Solvency II and not only to life insurance undertakings. This is considered the most effective option in view of the coherence with the current Solvency II requirements and considering that non-life insurers and reinsurers are also exposed to sustainability risks.

Policy issue 2 - Organisational requirements

EIOPA considers that sufficient flexibility should be allowed for undertakings to integrate sustainability risks without significant changes in their internal organisation. This options is also preferred in view of the proportionality principle.

Policy issue 3- Reference to sustainability risks under the prudent person principle

The mandatory requirement to consider sustainability risks would support the economic risk-based approach stipulated by Solvency II. The undertaking is required to take measures according to the nature, scale and complexity of the risk incurred, consistent with the principle of proportionality. The undertaking should ensure that the investment would not (materially) affect the ability of the (re)insurance undertaking to meet its obligations towards the policyholder.

Requiring undertakings to take into account sustainability risks and factors in their investments does not amount to requiring undertakings to disregard investments that would not be considered sustainable. Neither does it require to invest only in so-called sustainable assets. Freedom of investment is not affected.

EIOPA expects that strategies for sustainable investment will further evolve and best practices will arise based on the experience that is being made. It may be relevant to keep taking stock and at some point, guidance may be developed to support undertakings to implement proportionate strategies.

EIOPA therefore considers that the explicit mention of sustainability risks and factors as part of the prudent person principle, while also consistent with ESMA advice, existing wording of the IORPII Directive and EIOPA's advice on the POG requirements, would be a proportionate measure.

Policy Issue 4 – Consideration of long-term impact of investments

The principle of stewardship of assets creates a general awareness for the impact of an undertaking's investment strategy on the sustainability of economic activities. Eventually, a the consideration of sustainability risks affecting its assets as well as the impact of its investments on ESG developments would be mutually reinforcing and most effectively lead to more sustainable investments overall.

The promotion of investor's engagement to support long-term sustainability of European Union companies can be an important leverage in preventing risks, ultimately also preventing the risks of potential disinvestment and minimising the risk of stranded assets.

Policy Issue 5 - Consideration of policyholders' ESG preferences

The consistency with the Insurance Distribution Directive and the coherence between prudential and conduct proposals made by EIOPA, require that, where ESG preferences are relevant for the product oversight and governance arrangements, insurance undertakings should accordingly reflect the ESG preferences of policyholders and beneficiaries in their investment portfolio, in order to act according to the prudent person principle, in the best interests of policyholders and beneficiaries.

Policy Issue 6 – Risk management

EIOPA considers that the symmetric reflection of sustainability risks on the asset side and on the liability side is important to ensure the consistent valuation on both sides of the balance sheet. The holistic approach to risk management is in line with Solvency II's risk-based approach. Therefore, sustainability risks should be addressed in the underwriting and reserving area of the risk management system as well as in the investment risk area. This is mirrored by the proposal that as an operating condition, the opinion expressed by the actuarial function should include considerations on the effect of sustainability risks.

Policy issue 7- Conflicts of interest

When comparing the costs and benefits of the different options, it should be considered that the existing provisions on conflicts of interest do not refer to any specific situation where conflicts of interest arise, but outline some general principles and criteria to be applied to assess and identify whether conflicts of interest arise in specific instances.

Taking into account that an explicit reference in a Recital would not have a binding effect and that a reference in all provisions on conflict of interest may unbalance the legal wording of the Delegated Regulation, overemphasising the conflict of interest linked to ESG considerations, it is proposed to introduce the reference in Article 3 of the Delegated Regulation only.

Policy issue 8 - Scope of insurance products covered

Whereas the Commission is, in particular, referring in its Call for Advice to insurance-based investment products, in EIOPA's view, the scope of application should be extended to non-life insurance products. This follows the consideration that there are also many long-term insurance products in the non-life sector where ESG preferences of customers may also play a role e.g. income protection insurance. Furthermore, it seems appropriate to include non-life insurance products as customers of non-life insurance products may also wish that their ESG preferences are considered when buying non-life insurance products.

Policy issue 9 - Scope of POG requirements applicable

Whereas the Commission has primarily referred to the necessity of insurance undertakings to take into account of ESG considerations in the context of the target market assessment, it seems appropriate, from a consumer point of view, to amend the other POG requirements as well.

For example, insurance undertakings should also be required to test their ESG products under the scenario that the underlying assets of an IBIP no longer fulfil the ESG criteria during the lifecycle of the product. In addition, the concept of “target market” pervades all aspects of the POG requirements so it seems very difficult to isolate any changes just to the target market assessment only.

Annex II – Resolution of comments

Question	Stakeholder replies	EIOPA comments
1. What would you estimate as the costs and benefits of the possible changes to the delegated acts under Solvency II outlined in this Consultation?		
The Personal Investment Management and Financial Advice Association (PIMFA)	No comment	Noted

European Savings and Retail Banking Group (ESBG)	We welcome the publication of the European Commission's action plan on financing sustainable growth and support the development of sustainable finance within the European Union. However, we would like to express our concerns about the timing. Not only is the absence of a clear view on the outcome at Level 1 on sustainable finance legislation (including for the framework/taxonomy) challenging, but the lack of legal definitions, e.g. of sustainability risks or factors, makes integrating sustainability risks and factors problematic, both from a Better Regulation and implementation point of view. There is, in our view, a risk of inconsistent implementation throughout the Union. With regard to sustainability factors, we agree that assessing the impact of investments on sustainable factors is desirable. However, the lack of common definitions, methodologies and guidance on how to capture the effects of investments on sustainability factors makes examining and evaluating these factors challenging. ESBG underlines the importance of a level playing field for all market participants, with the same rules applying to similar businesses, in particular with regard to product governance and the advisory process. Unnecessary complexity should therefore be avoided.	Noted. While EIOPA has developed its advice according to the timeline provided by the COM, it stands ready for follow up work needed in view of the final outcome of the level 1 discussions. During the preparation of the technical advice, EIOPA has liaised closely with ESMA to ensure consistency across sectors to the extent possible.
Schroders plc	As an asset management company we cannot estimate the costs of the possible changes for the insurance industry, however, we definitely see benefits in capturing risks that currently are not accounted for in conventional stress tests/models, and in creating a level playing field between all providers of investment services.	Noted

Investment and Life Assurance Group	Not applicable.	Noted
SD-M GmbH	The benefits of integration of relevant / material ESG indicators far outweigh the costs.	Noted

European Funds and Asset Management Association (EFAMA)	EFAMA is the voice of the European investment management industry. Through its 28 member associations, 62 corporate members and 25 associate members EFAMA represents more than EUR 25 trillion in assets under management of which EUR 15.6 trillion managed by 60,174 investment funds at end 2017. Given that EFAMA members aren't insurance undertakings, we cannot estimate the costs and benefits of the possible changes to the delegated acts under Solvency II outlined in this Consultation. It is however important to hightlight that as insurance companies are within the biggest group of institutional clients of investment funds and asset management companies, it is necessary that any changes to the regulatory framework applying to the insurance sector is consistent with any similar changes currently under discussion for asset management companies. In this repsect, ensuring a consistent approach between the current EIOPA consultation and ESMA's ongoing consultation process on integrating sustainability risks and factors in the UCITS Directive, AIFMD and MiFID II is paramount, as the subject treated in each of these consultations is the same, i.e. "sustainability risks and factors" in respect to the investment decision and distribution process. The fact that each of the consultation papers refers to different industry sectors cannot justify any differentiated definition and treatment of such risks as they are all are part of the same investment decision and distribution process. We note that the deadline for EIOPA and ESMA to deliver their technical advice to the European Commission is the same, i.e. end of April 2019. We therefore call for a consistent advice to be provided that would allow consistent level 2 measures to be applied across the investment services supply chain. In addition, we welcome EIOPA's clarification that for the purpose of this consultation paper and advice, the choice is to refer predominantly to sustainability risks rather than to sustainable investment, as this is indeed the mandate given by the European Commission to EIOPA. In this context, it is important to draw a clear distinction between risks to the performance of an investment from ESG considerations, which is the one lined to the definition of sustainability risk, on the one hand and risks to environment and society from investments on the other, which is a concept linked to sustainalbe investment. From a risk management perspective, ‘sustainability risk’ has to be financially material to the investment. This is the single most important consideration. In other words, ‘sustainability risks’ should mean the financial impact arising from environmental, social and governance considerations on the investment. This has to be clearly distinguished from the process of integrating ESG factors in the investment decision-making process.	Noted. During the preparation of the technical advice, EIOPA has liaised closely with ESMA to ensure consistency across sectors to the extent possible. It has been clarified that for the purpose of the Advice, sustainability risks should be understood as risks that could affect the insurance and reinsurance undertakings’ risk profile, on the investments and liabilities side, due to ESG factors. Further defining sustainability risks as “material”, “relevant” or “financially relevant” would not reflect the complex nature of sustainability risks and would be inconsistent with the treatment of other risks (e.g.

	In this respect, we have some key reservations as to how integration risks are included in particular provisions of the Solvency II Delegated Regulation (mainly the prudent person principle, see our response to question 5 below), as we consider the proposed provision would be misleading and mixing the notion of sustainable risks with that of sustainable investments, which refers only to a particular subset of investments. Finally, we welcome the intention of EIOPA to remain consistent in the way the requirements for sustainability risks are expressed when compared with other risks in the Solvency II Delegated Regulation, as well as the effort to ensure discretion for the insurance company to take the beneficiaries interests into account by regularly including the term "where relevant" into its proposed texts.	reputational risks). The regulatory approach needs to allow for evolving understanding and techniques.
Eumedion	This question falls outside the scope of the activities of Eumedion.	Noted

Actuarial Association of Europe (AAE)	General comments part 1/2 to the consultation (5000 characters maximum): The Actuarial Association of Europe (AAE) welcomes the opportunity to provide comments to this sustainability consultation on Solvency II and IDD. The AAE is of the opinion that matters related to sustainability are highly important and that the underlying insurance legislation should acknowledge and even encourage insurers to change their business practices to a more sustainable direction. The consultation stays on a principles-based level on what is required from insurers, which seems to be a good approach to start. The AAE is of the opinion that insurers (and pension funds) should be incentivised to make sustainable, carbon neutral/negative investments, but accepts that a detailed plan of how to introduce any green supporting factors may not yet be at the stage of development to implement at this time. Insurers, in particular life insurers, and pension funds may be the only pools of capital today that could fund the economic reorientation required. Also, the revised timeframes in the IPCC 2018 report set an ambitious path for this change having the year 2030 as the new target. Any change in the legislation should encourage starting rapid actions but not force this course. Care in this area would also help to avoid unwanted transition risk. EIOPA highlights in the paper (par. 39 to 41) the importance for insurers to understand deeply what sustainability means and what risks it brings to them. However, the paper struggles to properly define sustainability (par. 10 to 17) and refers to several other documents where it is defined in different ways. This might leave insurers in a difficult position if they are forced to bring the concept of sustainability into their business practice but are at the same time left wondering what sustainability actually means and what kind of information can be used to understand it. For instance, the consultation paper refers to the EC's proposal (Par. 14) which leaves the concept unclear. While this may be appropriate for a regulation setting broad standards, EIOPA must simultaneously offer, through different avenues, detailed standards of what might be considered. More depth would be needed in defining the list of factors. For example: a. The Intergovernmental Panel on Climate Change (IPCC) Summary for Policy Makers (https://www.ipcc.ch/site/assets/uploads/2018/02/WG1AR5_SPM_FINAL.pdf) offers environmental variables that can be used. Some of the following can be subdivided. I. Climate Systems;	Noted. It has been clarified that for the purpose of the Advice, sustainability risks should be understood as risks that could affect the insurance and reinsurance undertakings' risk profile, on the investments and liabilities side, due to ESG factors.

	II. Atmospheric Temperature; III. Ocean heat content; IV. Cryosphere (snow and ice cover); V. Sea Level; VI. Carbon and other biogeochemical concentrations. b. The IPCC Technical Summary (https://www.ipcc.ch/site/assets/uploads/2018/02/WG1AR5_TS_FINAL.pdf) provides more details that can be used. For example, the CO2 measures have components such as cement, gas, oil, coal, and also details Other Well-Mixed Greenhouse Gases (CH4, N2O, Halocarbons). It might be helpful to define sustainability in the regulations for example by using the following components: a) Two components specific risk to the insurer/ a pension fund entity: a. Risk to asset returns and valuations b. Risk to liabilities, either on balance sheet or implied, b) One component for "Stewardship", a. Risks to the society /globe outside of the insurer / pension fund. c) Systemic risk as the industry might be sequencing their actions similarly. This risk might also be partly covered in the other components too. As the proposed amendments to the Technical Advice are quite vague, it is not always clear what is expected from (re)insurers and in particular from the Actuarial Function.	

	Answer specifically to question 1: The benefits to the insurance community and the globe could be enormous, if the regulations manage to bring enough incentives for a more sustainable way of doing the business and if those actions can start rapidly. Including monitoring and analysis of ESG risks into the overall risk management framework (governance, key functions, written policies, ORSA) seems to be a reasonable goal and would definitely increase the awareness in the industry. Indeed, many entities have already begun integrating sustainability considerations in their risk management. Generalizing this to the whole market would probably contribute to make it more resilient for a limited cost.	

Finance Watch	The impact assessment does not appear to take into account potential benefits that could arise from the proposed changes to the Delegated Acts under Solvency II in terms of improved environmental, social or governance impact. Whilst these measures aim to meet the objective set out in the request for technical advice, it is recognised on page 35 that it is connected to the three stated aims from the European Commission 'Action Plan - Financing Sustainability Growth'. The impact assessment should therefore how large the expected positive impact, if any, would be for each proposed policy option towards reaching these objectives. EIOPA could additionally be explicitly tasked with compiling a report to monitor any progress towards achieving these aims five years after the implementation of the proposed amendments.	While the connection of the objectives of this technical advice with the Commission Action Plan are explicitly recognised, the impact assessment has been done with particular focus on the impacts for the relevant stakeholders of the insurance prudential regulation (i.e. insurance industry and policyholders), in line with EIOPA's mandate.

Insurance Europe	Insurance Europe welcomes the EIOPA proposals to integrate sustainability risks in the insurers' prudential framework. The insurance sector appreciates EIOPA's approach to balance between the need for consistency in the requirements for sustainability risks in the Solvency II Delegated Regulation, and the commitment to explicitly integrate sustainability risks in certain aspects of the regulation. In this respect, the insurance industry notes that some insurers have already started to consider sustainability issues in their business model, including the system of governance, the risk management and the investment decisions. Regarding the whole set of proposed changes, Insurance Europe would like to raise the following points: -Sustainability risks should refer to financially material risks that might affect the risk profile of the undertaking. Given the lack of a commonly accepted definition of sustainability risks and the fact that the legislation on sustainable finance is under development (eg sustainability taxonomy and disclosures), the definition of sustainability risks should be flexible and should provide insurers with sufficient methodological freedom to deal with these risks, in line with their risk appetite. -Sustainability risks should be considered in relation to the undertaking's risk profile. As Solvency II has been designed as a risk-based framework with the objective of protecting policyholders, any proposal to change the framework should ensure that it remains risk-based. -The inclusion of sustainability risks, where relevant, should be integrated in the already existing Solvency II requirements and not exceed them. Indeed, Solvency II already provides requirements on governance, risk management and investment decisions and those requirements apply to all risks. In addition, sufficient flexibility is key to allow insurers to integrate sustainability risks in their business model in a feasible manner. -Proportionality in the Solvency II framework is key. When including sustainability risks in the Delegated Regulation, explicit references with regard to proportionality considerations should be reflected in EIOPA's proposals. -EIOPA should recognise the current sparseness of data which represents an obstacle to monitor sustainability	Noted It has been clarified that for the purpose of the Advice, sustainability risks should be understood as risks that could affect the insurance and reinsurance undertakings' risk profile, on the investments and liabilities side, due to ESG factors. Further defining sustainability risks as "material", "relevant" or "financially relevant" would not reflect the complex nature of sustainability risks and would be inconsistent with the treatment of other risks (e.g. reputational risks). The regulatory approach needs to allow for evolving understanding and techniques.

	exposures. Information and related data would need to be available and transparent across the whole financial sector and various markets players.	The proportionality principle applies generally in accordance with Article 41(2) of the Solvency II Directive. EIOPA consider that the proposals are flexible enough to allow for a proportionate application. EIOPA acknowledges the difficulty in identifying, measuring or monitoring sustainability risks today. Sustainability risks add a dimension to an undertakings' risk assessment arising from ongoing changes in environment and society, whose direct or indirect effects may not realise for some time. Such complex risks will require investment in analysis capacity, data and the development of forward-looking approaches to risk management, as we are unable to rely as much on historical data for this.

ClientEarth	It is noted that many of the amendments proposed by EIOPA in the technical advice are aimed more at clarifying existing obligations, rather than introducing new principles. For instance, sustainability risks should already be considered under the existing risk management provisions of Solvency II. Accordingly, the proposed amendments should not introduce additional costs beyond those already required to comply with existing regulation. Nevertheless, the benefits of clarifying the inclusion of sustainability risks are clear in circumstances where many companies have historically overlooked significant risks such as climate change.	Noted

AMICE aisbl	Many facets of sustainability are at the core of the relationship between member/policyholders and their mutual/cooperative insurers; it is a principle which is central to the ethos, activities and relationships of those insurance entities represented by AMICE, the Association of Mutual Insurers and Insurance Cooperatives in Europe, and to this end we highly support the European institutions in their aims to ensure that sustainability is recognised as key to the future of Europe. Aspects of sustainability are already areas of risk management expertise for insurers, providing security in the face of climate risks. Thus, insurers' risk management systems already encompass sustainability risks, calibrated to their risk appetite. This extends from the underwriting function into investments, and many of our members have set very high "sustainability" criteria for their investment activities as well as other aspects of operation. This remains, nevertheless, a function of the risk management direction decided and agreed by each insurer within the comprehensive prudential regulatory system now applying to the vast majority of insurers in Europe, Solvency II. Solvency II is a principles-based risk-based capital regulatory regime in which re/insurers take full account of all types of risks and have a deep understanding of them. Many of these sources of risk are not specified in the current legislation, reflecting the principles-based structure of the regime and enabling an ongoing ability to accommodate and incorporate all types of risks as they evolve. This includes sustainability risks, and therefore we believe that there are significant aspects of these proposals which are already captured in the regulatory regime. To detail these and make the proposed changes to the delegated acts, particularly in the absence of the outcome of the work on taxonomy, not only leads to sustainability risks being treated in a different way from other risks but also fixes them, with the threat that the legislation may not adapt to future change. It is vital that the approach to sustainability risk is holistic and proportionate, taking into account all aspects of risk, and with respect for the nature, scale and complexity of the insurer. Current activities, as indicated in this consultation, appear to be weighted towards investment risks, and we have a concern that any sharper focus on these types of risks may have the unintended consequence of skewing the risk approach. Solvency II is successful as a regulatory system because of its objective and holistic approach to risk, and this needs to be retained while encouraging approaches and activities which positively contribute to sustainability goals. These could include industry awareness workshops and training to upskill those with responsibility for risk, which would be a positive benefit emanating from these proposals. AMICE would like to make it clear that we welcome these proposals and are supportive of developing the regulatory infrastructure in a positive way to properly reflect sustainability risks; we believe that there would be a much better outcome to this consultation if it is delayed until after the taxonomy work has been concluded, and should be focussed on integrating sustainability factors and risks rather than creating a new category of risk.	EIOPA agrees that the risk management system should consider all risks insurance undertakings are or could be exposed to. It is acknowledged, however, that practice differs among undertakings. EIOPA consider that the explicit mention to sustainability should not weaken the management of other types of risks. While EIOPA has developed its advice according to the timeline provided by the COM, it stands ready for follow up work needed in view of the final outcome of the level 1 discussions, in particular with respect to the Disclosures Regulation. The delay until the taxonomy is fully developed is not deemed strictly necessary, considering that the taxonomy is focused on the definition of "sustainable investments" and not on "sustainability risks".

	We have concerns that there is the risk of introducing new requirements which are not fully harmonised with Solvency II, particularly during a period when there is a full review of Solvency II taking place under a separate initiative, and that these may be exacerbated by this consultation taking place before elements such as the taxonomy have been concluded. It is important to note that recital 16 of the Solvency II Directive states that "the main objective of insurance and reinsurance regulation and supervision is the adequate protection of policyholders and beneficiaries... Financial stability and stable markets are other objectives of insurance and reinsurance regulation and supervision which should also be taken into account but should not undermine the main objective." Thus, integrating sustainability risks into the Solvency II regime must be balanced with this requirement to ensure the adequate protection of policyholders and the protection of fair and stable financial markets. From a cost perspective, without more knowledge of definitions and the taxonomy, it is impossible to estimate the costs of the possible changes to the delegated acts since there are no criteria against which to make such measures. Insurers would need some degree of concrete information about the taxonomy decisions before they could attempt such an estimate. From a benefit perspective, the direction and tasks outlined in the consultation paper are already undertaken as part of Solvency II; thus, benefits will not arise specifically from changes to the delegated acts.	

IRSG	GENERAL COMMENTS ON THE CONSULTATION PAPER • The IRSG welcomes the European Commission initiative and the EIOPA proposals on integrating sustainability risk and factors. This is a key topic for society at large and one in which insurers as product providers and investors play a key role. • Overall, the draft technical advice appears to support the general principle that undertakings are already required to consider material sustainability risks. Risk events such as hail, windstorm and flood risk are examples of these considerations. The majority of EIOPA's proposed amendments seem to be aimed at clarifying this, rather than introducing any new principles. • We agree with and welcome this approach for material sustainability risks which may result in financial losses (e.g. the financial risks associated with climate change). • Many of the proposed requirements are already in practice in effect for most firms through local and European legislation, in particular the Non-Financial Reporting Directive (NFRD) requirements which are likely to put the onus on firms to ensure that they have appropriately considered these elements within their Solvency II Pillar 2 frameworks. The proposals may also need to fit with the Shareholder Rights Directive II in certain places. • EIOPA and EC should consider the implications of implementing the proposed changes in advance of factual and legal clarity regarding the definition and scope of "sustainability risk", as well as the absence of education, testing, operational implementation and consideration of practical implications. Different interpretations across borders is a distinct possibility in the absence of clarity of definition. • We consider that the proposed explicit references to sustainability risks may help insurers to integrate such risks into their risk management function. That being said, some stakeholders have expressed concern that isolating sustainability risks in the regulation may give inappropriate emphasis to sustainability potentially at the expense of other risks. • EIOPA should consider including a distinction between "financial" risks which impact on insurance companies and their customers and broader "non-financial" or societal sustainability risks. Solvency II legislation, as prudential insurance regulation, is not designed to address the wider societal risks and implications. • It can be difficult to ascertain the nature of customer preferences, particularly relating to something such as sustainability which is relatively intangible for many in an investment context. We suggest that caution be	Noted. It has been clarified that for the purpose of the Advice, sustainability risks should be understood as risks that could affect the insurance and reinsurance undertakings' risk profile, on the investments and liabilities side, due to ESG factors. With regard to the policyholders' and beneficiaries' ESG preferences, EIOPA would like to clarify that the requirement seeks to ensure that the undertaking consequently implements in the risk management and investment management strategy of the undertaking, the commitments made to policyholders on ESG characteristics of the specific product. In offering ESG-specific products and not investing accordingly, insurers would be exposed to reputational or, potentially, liability

	exercised in requiring actions based on an interpretation of customer preference which may be not fully formed, particularly in the absence of clear taxonomy, and may differ from undertaking to undertaking. An alternative suggested within the IRSG may be to consider the approach adopted in the Shareholder Rights Directive II. ANSWER TO QUESTION 1 The scope and regulatory burdens are difficult to estimate in the absence of a clear definition of sustainability risk. Having said that, most costs are linked to: • working with specialists (e.g. internal recruitment, external services), • access to sustainability data, and • IT systems At fund level, costs would also come from the additional reporting requirements to demonstrate ESG compliance, which are expected to raise the cost of the funds to the customer. If a recognised index data, for example MSCI or sustainability, is used, this is likely to come with large licence costs. Potential benefits can be identified in the promotion of sound risk management and an enhanced awareness of the issue of sustainability. This can contribute to mitigating and building resilience against long term climate risk, which represents a significant threat to the insurance sector and wider financial system. This is on the basis that amendments made: • maintain, but do not exceed, the overall established risk-based framework • do not put excessive focus on sustainability risks at the expenses of other risks.	risks. The wording has been revised to refer to the preferences of the identified target market.
2. What would you estimate as the costs and benefits of the possible changes to the delegated acts under IDD outlined in this Consultation?		

European Savings and Retail Banking Group (ESBG)	It is difficult to estimate the costs under the current conditions. Such an assessment would only be possible once EIOPA has outlined the announced guidance. Regulators should keep in mind the high costs of introducing new regulatory obligations that may soon be superseded by the EU taxonomy. Those costs pertain to e.g. modifying the sustainability tests as well as the IT processes including underlying algorithms. Consequently, it is problematic that entities will have to develop processes and criteria to comply with the obligations that may change very soon. From the point of view of operational risk, the obligation to develop ESG criteria with little guidance implies substantial liability risks.	Noted re possibility for EU taxonomy to supersede new regulatory obligations.
Schroders plc	As an asset management company we cannot estimate the costs of the possible changes for the insurance industry, however, we definitely see benefits in capturing risks that currently are not accounted for in conventional stress tests/models, and in creating a level playing field between all providers of investment services.	Noted
Investment and Life Assurance Group	Not applicable	
SD-M GmbH	The benefits of integration of relevant / material ESG preferences far outweigh the costs.	Noted
European Funds and Asset Management	Please see our response to Question 1	

Association (EFAMA)		
Eumedion	This question falls outside the scope of the activities of Eumedion.	
Actuarial Association of Europe (AAE)	General comments part 2/2 to the consultation (5000 characters maximum): In paragraph 4 the paper sets out the aims of the Commission which are sensible. It would however help if the paper gave some concrete examples of how these can be applied in practice by (re)insurers. For instance: a. Capital Flows / Transparency I. Insurers to publicise their investment strategy regarding sustainability, so as to allow customers to refer to this criterion when choosing their insurer; II. Insurers to offer sustainable investment options for products with a customer driven investment choice (e.g. mutual funds). b. Financial Risks to be considered by Risk Management Function / Actuarial Function I. Risk of poor asset performance where insurers invest long term in unsustainable investments II. Risk of increasing frequency/severity of climate related events; III. Risks of increasing cost of reinsurance/or lack of reinsurance for climate related events; IV. Risks attaching to alternative risk transfer/mitigation mechanisms when applied to climate related risks – e.g. Cat Bonds. c. Societal risk: increasing levels of un-insurability for some customers (e.g. flood-prone customers). Par. 13 refers to Recital 58 which cites the relevance of ESG factors. This recital however explicitly allows that a statement clarifying lack of consideration of ESG factors is sufficient to satisfy requirements. This creates a “safe	Noted

	harbour" for not doing anything. While this may be a practical solution initially until ESG analysis and regulations are developed further, EIOPA should make VERY clear that ESG standards will evolve and that insurers methods must also evolve. Otherwise, these regulations may become a check box exercise not in the spirit of ESG, creating a toothless regulation. Much focus is now being given to sustainable investments. Even though this might be the most important single aspect to cover, the viewpoint should be holistic on how the insurance business might change because of the environmental and societal changes. This would help the AMSB and the independent functions fulfil tasks given to them in a better manner even though the definitions of sustainability are somewhat vague. EIOPA should also note that the International Actuarial Association is integrating ESG risks into its Risk Book by the end of 2019. Both IAA and AAE have also actuarial standards and actuarial notes on several aspect relating to actuarial work and might be able to bring clarification to what is required from actuaries for any new tasks also, for example those related to sustainability. Answer specifically to question 2: Creating the awareness amongst policyholders and new customers buying insurance services on how sustainability has been taken into account in the offering is a welcome development. Furthermore, this is not just for unit linked products. When the awareness increases there will also be more demand for insurance products taking into account the different aspects on sustainability (e.g. carbon footprint). This can be seen as one of the starting points to the progress which itself includes a lot of benefits. The cost side can be seen as an aspect which obviously each insurer needs to take into account before implementing actions. In the future, differential pricing for products may become the norm in insurance practice where there is a difference in return/risk expectations for ESG investments.	

BIPAR (European Federation of Insurance Intermediaries)	BIPAR supports the Commission's and EIOPA's ambition to encourage investments in a more sustainable world. We recognize the need for a concise framework on transparency of sustainability risks and ESG factors towards consumers and the public in general. We agree that integrating ESG factors into investment advice and creating a new framework for sustainable finance are necessary to channel investments into sustainable activities and strengthen financial stability. In this context, it is important to ensure that the different legislative proposals do not trigger a duplication of requirements for insurance intermediaries and financial advisors, but they establish a consistent framework. BIPAR believes, however, that there are also other ways to promote sustainable products and incentivize transitioning to a green economy - such as tax incentives that could encourage investment into sustainable economic activities. More regulation and more information should not be the sole solution. It is difficult to estimate in advance the exact costs that the sustainability-related changes in the IDD may bring about to insurance and financial intermediaries. Feedback from our member-associations suggest that the costs will be mainly related to • Staff training or recruitment of specialists; • Amendments to IT systems capturing client information; • Access to additional (sustainability) data; • Revision of management information and portfolio monitoring systems; • Revising product governance procedures to take account of ESG preferences; and • Establishing contact with existing clients to ascertain ESG preferences. Further to implementation costs, BIPAR also expects additional costs to arise from reporting requirements to prove compliance with the amended rules on insurance and investment advice to integrate ESG preferences and with the new rules on ESG disclosure duties. BIPAR warns that such costs should be taken into account when introducing new obligations, as it is most likely that the consumers will have to ultimately bear them. For instance, considering that the new ESG obligations on advice and disclosure will start to apply before the EU taxonomy (specifying common criteria on what is sustainable) is established, unnecessary costs will arise as providers and distributors would have to develop their	Agreed on the need to ensure consistency in the different regulatory frameworks Noted regarding useful input concerning areas where costs will arise for insurance and financial intermediaries EIOPA appreciates that providers and distributors may incur some costs in amending systems and controls, but does not support the approach of industry passing on costs for compliance with regulation directly to consumers

	own criteria and processes to comply with these ESG obligations. Following the adoption of the taxonomy, they would have to develop once more new processes in order to comply with the new criteria framework. In addition, considerable liability risks may arise for distributors and providers if they are obliged to develop their own ESG criteria ahead of the agreement on an EU taxonomy. In other words, once EU taxonomy is available, customers might challenge these ESG criteria developed individually by companies giving grounds for mis-selling cases. This is to be seen in relation to the fact that due to rapid technological and scientific developments, the concept of "sustainability" changes swiftly. What is considered sustainable today may not be sustainable tomorrow!	 Noted regarding liability risks arising from the lack of a common taxonomy. However, in the meantime, there are already some well recognised taxonomies developed by the United Nations, for example.

German Insurance Association	The exact costs of the possible changes are difficult to anticipate. However, on the basis of a survey conducted by the GDV the estimated implementation costs for the German insurance undertakings for the necessary changes caused by the IDD – without ESG-legislation – was overall 862 Mio. € one -off and 568 Mio. € ongoing costs per year. Out of that amount 319 Mio. € one-off costs for the implementation of adjusted advice processes and 68 Mio. € for the implementation of product oversight an governance processes (POG). Ongoing costs (on an annual basis) for advice processes are estimated with 79 Mio. € and POG with 19 Mio. €. This potential burden on providers and – ultimately – customers should be taken into account, when new distribution obligations are introduced. This includes especially the disclosure requirements on ESG and the additions to the rules on advice which are currently developed as separate legislative acts. Unnecessary cost drivers should be avoided. A prominent example would be an introduction of obligations on disclosure and advice before the underlying rules on a common taxonomy are finalized. In this case, providers would have to develop processes and criteria to comply with the obligations twice within a relatively short time. This would not be proportionate. The potential costs of the legislation on sustainability may be greatly increased by liability risks arising from the lack of a common understanding of what exactly is sustainable and what is not. Discrepancies in the understanding to this regard may lead to contracts being declared as not valid by the civil courts at a later time. This risk is especially relevant with a view to future collective redress mechanisms. Therefore it is, in our view, essential that any obligations with regard to advice and customer information on ESG are preceded by the Regulation on taxonomy. With respect to the timing of the new legislation on ESG considerations, we would like to stress that an insufficient transposition period for the market participants causes a substantial increase in the costs of implementation. Furthermore, we would like to point out that there will be additional costs with regard to the mandatory integration of ESG considerations in the advisory process. Relevant costs are for example for the adaptation of the advisory and documentation process, especially the modification of advisory tools.	Noted re cost of obligation to disclose or advise on ESG preferences, hence EIOPA takes a flexible approach with use of “where relevant” in the text Noted re potential legal risks arising from a lack of a common taxonomy at EU level. However, there are already some taxonomies already developed, for example by the United Nations in relation to responsible investment

		Noted re transposition time where the Commission has factored in a transitional arrangement in its legislative proposals Noted re advisory process, although the focus of EIOPA's technical advice is on identification of conflicts and interest and product oversight and governance

Finance Watch	The impact assessment does not appear to take into account potential benefits that could arise from the proposed changes to the Delegated Acts under the Insurance Distribution Directive (IDD) in terms of improved environmental, social or governance impact. Whilst these measures aim to meet the objective set out in the request for technical advice, it is recognised on page 35 that it is connected to the three stated aims from the European Commission 'Action Plan - Financing Sustainability Growth'. The impact assessment should therefore how large the expected positive impact, if any, would be for each proposed policy option towards reaching these objectives. EIOPA could additionally be explicitly tasked with compiling a report to monitor any progress towards achieving these aims five years after the implementation of the proposed amendments.	While the connection of the objectives of this technical advice with the Commission Action Plan are explicitly recognised, the impact assessment has been done with particular focus on the impacts for the relevant stakeholders of the insurance prudential regulation (i.e. insurance industry and policyholders), in line with EIOPA's mandate.

Insurance Europe	The exact costs of the possible changes are difficult to estimate without more information and time. However, the implementation costs for insurance undertakings may be high. This will mainly be the case for insurers that have not yet started making ESG considerations. As such, a proportionate approach would be appreciated, allowing time for insurers to, in good faith, develop their approach in reasonable time. Unnecessary cost drivers should be avoided. For example, certain elements, such as a customer's ESG preferences, would require the taxonomy to be developed in order to provide more clarity. Care should therefore be taken when introducing obligations on disclosure and advice before the underlying regulation on a common taxonomy is finalised, as it could result in providers having to develop processes and criteria to comply with the obligations twice within a relatively short time. This would not be proportionate.	Noted Noted re need to take into account, impact of the forthcoming common taxonomy. This is why EIOPA has gone with a high-level approach to its amendments and used "where relevant" in its drafting

WWF European Policy Office	For many years there has been a large discussion about the lack of useful sustainability data throughout the investment chain in order for investors to make well-informed decisions factoring sustainability issues everywhere relevant. In the case of retail investors, surveys show convergent findings: - A survey conducted by Natixis Global Asset Management with over 7000 respondents in 22 countries points out that for around 70% of retail investors, non-financial aspects are important factors for their decision making. - Similarly, a survey from Schroders surveying 22,100 people from 30 countries found that 78% think sustainable investing is more important to them now than five years ago. Such high majorities must be adequately captured and integrated in the process to select and offer a product, to ensure that the clients' investment objectives are fully understood and that suitable products can be recommended on that basis. This is consistent with the objective of the IDD product oversight and governance requirements, ensuring that they act in the customer's best interests during all stages of the lifecycle of the products or services. There is enough evidence so that sustainability considerations become a mandatory step in the sequence of advisory dialogue. As part of the advisory process/dialogue, there should be a mandatory question about whether the retail investor has ESG preferences. Such a question should be asked at the end of the usual questionnaire, as it makes sense to start the questionnaire with financial issues first. Such a sequence should be clarified by EIOPA, as there is no clear sequence in the proposed Commission's delegated act. Once this 'ESG preference' question is mandatorily asked and the retail investor shows interest, an additional ESG-specific questionnaire should be used by the investment adviser to gather more elements on the ESG preferences of the client (which may differ a lot depending on the client). Non-financial investment objectives are diverse in nature and taking them into account might involve trade-offs (e.g. liquidity, diversification). In this context, the design of an unbiased questionnaire can be complex and thus generate fear of non-compliance with IDD basic requirements. To reduce the cost of implementation and avoid uncertainty, we recommend the development of a standard questionnaire that can be annexed to the ESMA and EIOPA guidance's and used as a default option by financial advisors and insurance intermediaries, on a voluntary basis. Such a standard ESG-specific questionnaire would benefit both the clients (as the questionnaire would help to fine-tune their ESG preferences in a clear way) and the investment advisers (as the questionnaire would structure and facilitate the ESG discussion with the client, reduce complexity and ensure compliance with the new IDD ESG-related requirement).	EIOPA appreciates the need to give more prominence to the issue of the customer's ESG preferences in advice process and the suggestions to develop questionnaires for the advice process. That subject is dealt with by a Delegated Regulation being developed by the European Commission and these aspects could be considered by EIOPA in a second stage in developing information supervisory guidance. The

	Given the very high majority of retail investors that express interest for non-financial issues, we even believe that the burden of proof should be reversed, ie the general assumption should be that retail clients do care about ESG issues and those not interested should express it – instead of today's approach where those retail investors that care about ESG issues are the ones required to express it : an opt out approach should gradually become the new normal, and replace the opt in approach. Finally, WWF is concerned about the significant lack of knowledge and common illiteracy on sustainability/ESG issues of most investment advisers: this makes it far less likely that the ESG preference of the client will be integrated properly, as it makes the financial adviser less likely to provide the proper information to the retail investors in case they are interested in these issues (. The EIOPA should include in its guidance that sustainability issues shall be integrated as part of the investment advisers' trainings, to ensure they have the relevant knowledge and ability to answer the client's ESG-related demand adequately.	focus of this technical advice is on the identification of conflicts of interest and product oversight and governance processes.

ClientEarth	We consider that, while difficult to quantify, the benefits of increased awareness of sustainability among consumers are manifold. We consider that adequate weight should be given to these benefits when weighed against estimated costs which may be easier to quantify, but not necessarily greater. The time horizons of costs and benefits are also relevant. Short-term costs should not be given undue emphasis over long-term benefits.	Noted, also re important distinction between long-term and short-term costs

AMICE aisbl	Without more knowledge of definitions and the taxonomy, it is difficult to estimate the costs of the possible changes to the delegated acts since there are no criteria against which to make such measures, even taking as many assumptions as possible into account. Insurers would need some degree of concrete information about the taxonomy decisions before they could attempt such an estimate, and the challenge of certain aspects such as matching policyholder perspectives on this would still remain unquantifiable. When the Commission published earlier this month its delegated acts as regards the integration of ESG considerations in the advisory process, they clarified that insurance firms can already prepare to take ESG considerations and preferences into account (given that the work on taxonomy is not finalised yet) but this would result in companies developing their own ESG criteria; once the EU taxonomy is adopted they would be required to adapt to the new requirements, which would effectively mean they would be required to undertake the work twice. Nevertheless, it would appear that extra costs, particularly in product oversight and governance, could be substantial, and it is important to maintain a core focus on proportionality and the value that any new requirements will provide to the policyholder. Furthermore, access to relevant expertise and data should be available and affordable for all sizes of insurer.	Noted re difficulty in estimating costs due to lack of a taxonomy

IRSG	The exact costs are difficult to estimate, but implementation costs in relation to the types of change proposed for insurance undertakings could be high. The potential burden on providers and ultimately on customers should be taken into account when new distribution obligations are introduced. This includes the disclosure requirements on ESG and the additions to the regulations on advice which are currently developed as separate legislative acts. Unnecessary cost drivers should be avoided. An example would be the introduction of obligations on disclosure and advice before the underlying regulation on a common taxonomy is finalised. In this case, providers would have to develop processes and criteria to comply with the obligations twice within a relatively short time, which would not be appropriate. In addition, being obliged to develop own ESG criteria ahead of the agreement on an EU taxonomy also creates considerable liability risks as customers might challenge companies' ESG criteria, once the EU taxonomy is available – possibly years after the companies have been obliged to develop their own criteria. Creation of awareness among policyholders and new customers buying insurance services on how sustainability has been taken into account in the offering will be a valuable development. When the awareness increases it is likely that there will also be more demand for insurance products taking into account the different aspects on sustainability (e.g. carbon footprint). Actual benefits are difficult to quantify, with elements such as demand for and supply of sustainable investments as well as counterparty risk factors adding to complexity.	Noted re difficulty in measuring exact costs and the impact of the convergence of separate pieces of regulation covering both disclosure and advice before a taxonomy has been developed. EIOPA's technical advice takes a high-level approach and uses text such as "where relevant" to allow manufacturers and distributors discretion/flexibility at this stage, bearing in mind that a common taxonomy has not yet been developed. Noted also important point made that when awareness increases, it is likely that there will also be more demand for insurance products taking into account the different aspects of sustainability (e.g. carbon footprint).
3. Do you agree with the proposed reference on the tasks of the risk management function?		
Schroders plc	Yes	Noted
Investment and Life	Yes	Noted

Assurance Group		
SD-M GmbH	Yes	Noted
European Funds and Asset Management Association (EFAMA)	Yes	Noted
Eumedion	No	Noted
Actuarial Association of Europe (AAE)	Yes	Noted
German Insurance Association	No	Noted
Finance Watch	Yes	Noted
FERMA - Federation of European Risk Management Associations	Yes	Noted
Insurance Europe	Yes	Noted
WWF European Policy Office	Yes	Noted
ClientEarth	Yes	Noted
Principles for Responsible Investment (PRI)	Yes	Noted
AMICE aisbl	No	Noted

ICODA European Affairs	No	Noted
2° Investing Initiative	No	Noted
IRSG	Yes	Noted
Please give reasons for your answer:		
The Personal Investment Management and Financial Advice Association (PIMFA)	No comment	Noted
Schroders plc	We believe the suggested approach is very pragmatic and therefore agree with the proposed reference in relation to the risk management function.	Noted

Allianz	EIOPA proposes an amendment to Article 269(1)(e) SII-DR to explicitly include the identification and assessment of sustainability risks as a task of the risk management function. It should be noted that Article 44 SII Directive already assigns comprehensive obligation to the risk management function to identify and assess all risks to which undertakings may be exposed. We agree that considerations on sustainability risks, in the sense of how they impact the risk profile of the company, should be part of risk management processes. However an explicit reference to sustainability risks introduces an element of redundancy and may overemphasise this particular element of an - by definition – comprehensive risk management process resulting in legal imbalance. From a practical perspective investment related sustainability risks materialize through known and well-established risk factors covered by existing legislation (in particular credit spread risk, default risk, equity risk, and liquidity risk), and therefore are already integated in the risk management processes and tasks as laid out in existing Solvency II legislation. Should the Commission insist on the explicit integration of sustainability risks in the legal texts, as expressed in the request for technical advice (see section “1. Introduction” of the EU Com letter), we support the wording proposal made by EIOPA. However, it is essential that an assessment of materiality of sustainability risks allows sufficient flexibility for undertakings to integrate sustainability considerations in a proportionate way into their internal organization.	EIOPA agrees that the identification and assessment of sustainability risks should already be under the control of the risk management function; it is acknowledged, however, that practice differs among undertakings. The proposed reference is aimed to add clarity while allowing sufficient flexibility.

Investment and Life Assurance Group	For the risk management function to identify and assess sustainability effectively, risks will require a clear definition of ‘sustainability risk’ (see response to question 5) Clarification would be useful on the distinction and interaction between sustainability risks and other risks, which may result from sustainability issues. For example, the risk of losses to asset values is allowed for and measured within other risk categories. Paragraph 34 refers to the ‘proper integration of sustainability risks in the investment decision process’. We believe that most firms will already be considering ESG issues as part of their selection of investments, albeit not specifically referred to as sustainability risk.	
SD-M GmbH	The benefits of integration of relevant / material ESG indicators far outweigh the costs.	Noted

European Funds and Asset Management Association (EFAMA)	EFAMA agrees with the general reference to sustainability risks in terms of identifying and assessing such risks. Moreover, we agree with EIOPA's statement that the curent Solvency II provisions regarding the responsibilities and tasks of the administrative, management and supervisory body and the key functions do not represent an obstacle for the integration of sustainability risks into the company's investment decision process. Therefore, already now, all types of risks, including sustainability risks, should be taken into account. We also agree with EIOPA that given the absence of specific organisational requirements for particular risk areas, a further explicit reference to sustainability risks in respect to other elements of the governance system, such as fitness requirements and the content of remuneration policy, would not be coherent. Finally, we consider as pragmatic EIOPA's approach to suggest guidelines in respect to these elements and where necessary, so as to ensure common undertanding while at the same time allow for more flexibility.	Noted

Eumedion	We believe that it is important that insurers take proper consideration of sustainability risks. As correctly stated on p. 11 of the consultation paper all risks, and therefore also sustainability risks, should already be taken into account in the risk management process. EIOPA considers that making explicit reference to sustainability risks as proposed will promote that insurers take proper consideration of sustainability risks in the future (p. 11 of the consultation paper). Eumedion believes that the proposed reference on the tasks of the risk management function could unintentionally imply that other risks are of less importance. Therefore, Eumedion suggests to slightly amend the wording and to replace "and sustainability risks" by "including sustainability risks".	EIOPA agrees that the identification and assessment of sustainability risks should already be under the control of the risk management function; it is acknowledged, however, that practice differs among undertakings. The proposed reference is aimed to add clarity while allowing sufficient flexibility. EIOPA does not consider sustainability risks to be a sub-category of emerging risks. Some sustainability risks may still be emerging, but some are already having an impact, such as physical damage to assets caused by environmental risks.
Actuarial Association of Europe (AAE)	Further, it should be clarified that Sustainability has 3 aspects: Assets, Insurance, Stewardship. Accordingly, consideration must be given to each aspect: the insurer's assets, the insurer's liabilities, and the impact local and global societies and environments.	EIOPA agrees that sustainability risks could affect both the assets and the liabilities of insurers; the relevance of the stewardship principle is also shared. These aspects are explicitly included in the technical advice; an explicit reference under

		the tasks of the risk management function is not deemed necessary.

German Insurance Association	Already now Article 44 of the Solvency II Directive requires the risk management function to identify and assess all risks to which the undertaking is or may be exposed. As sustainability risks materialize through well-established risk factors, which are covered by existing legislation, financial material sustainability risks are already taken into account in risk management, ORSA and decision processes of AMSB. That is why we do not regard it as necessary to make an explicit reference on the tasks of the risk management in relation to the identification of sustainability risks. We agree that sustainability risks should be considered in view of their impact of the undertaking's risk profile as part of the risk management process, however, we do not see the need for an explicit reference, as this could also result in the identification and assessment of sustainability risks being overemphasized as it is one of many existing risks which may be relevant in the long-term (similar to, for instance, demographic change or longevity risk). Further, we would like to point out that we consider related risk management activities as a main task of the first line of defence (1st LoD). The main task of the risk management function as a second line function is to oversee the 1st LoD-activities as defined in the Delegated Acts. However, if the Commission insists on the explicit integration of sustainability risks in the legal provisions, we consider the proposed reference as acceptable. Thereby, it is essential, that an assessment of materiality of sustainability risks allows sufficient flexibility for undertakings so that they could integrate sustainability risks in a proportionate manner without changing their internal organisation.	EIOPA agrees that the identification and assessment of sustainability risks should already be under the control of the risk management function; it is acknowledged, however, that practice differs among undertakings. The proposed reference is aimed to add clarity while allowing sufficient flexibility.

Finance Watch	We are supportive of the inclusion of sustainability risk under point e) of the article 269(1), because the requirement to include the management of sustainability risk under the general risk management function needs to be explicit, given: 1) The potential significant financial impacts of climate change on both asset and liabilities side of the insurance undertakings and; 2) That currently only a small share of financial institutions disclose financial impacts of climate change on their business. In particular, the latest Financial Stability Board Task Force on Climate-related Financial Disclosures (TCFD) status report shows that very little meaningful information is provided by financial institutions and so there is currently insufficient information on how financial institutions, including insurance undertakings consider climate related financial risks.	Noted

FERMA - Federation of European Risk Management Associations	Yes but proportionality should remain central for smaller and less complex insurers and should be clearly mentioned. We welcome the mention of the need for a consideration of the proportionality principle when ensuring that insurance undertakings have sufficient understanding of sustainability risks on point 41. Indeed, small and less complex insurance entities must comply with all requirements but should be allowed to simplify their approach in the way they fulfil them. This is because, without posing a higher risk to global financial stability, compliance and regulatory costs for smaller insurance entities are high relative to their size. There is always a minimum in absolute value for compliance costs; irrespective of a company's size, which can be particularly detrimental to small entities. Proportionality is also crucial for supervisory authorities as it can allow them to use their limited resources more effectively and focus on what is relevant for the regulation (focus on more risky companies, critical risk areas in an industry segment, customer protection, etc.).	Noted. EIOPA consider that the proposed wording allows for sufficient flexibility and a proportionate application.

Insurance Europe	Yes, being supportive of the sustainability objectives, Insurance Europe recognises that the proposed explicit references should help integrate sustainability risks consistently and more efficiently in the risk management function. This is appreciated especially in consideration of the importance of this subject and its relevance in the years to come. Insurance Europe points out that already now financial material sustainability risks are able to be taken into account in risk management, ORSA and decision processes of AMSB. EIOPA itself noted in its consultation paper (eg paragraphs 33, 54 and others) that the current Solvency II framework does not represent an obstacle to the integration of sustainability risks. In order to ensure that the focus of Solvency II on policyholder's protection is maintained, the insurance sector suggests the following specification: "(e) identifying and assessing emerging risks and sustainability risks affecting the undertaking's risk profile". It is essential that the assessment of sustainability risks considers materiality and allows sufficient flexibility for undertakings to deal with the risks that affect their risk profile within their organisational structure. In this respect, Insurance Europe supports the statements in paragraph 17 of the consultation paper (ie "sustainability risks, in the same way as legal or emerging risks, tend to materialize through existing risk categories such as credit risk or property risk" and "EIOPA does not consider sustainability risks to be a sub-category of emerging risks") and notes that sustainability risk should be considered at the same level as other risks.	Noted. The suggested specification is not deemed necessary. Similar specification is not used in the Solvency II Delegated Regulation when referring to other types of risks. Risk management system should comprise processes for the identification and assessment of the risks the undertaking is or could be exposed to
WWF European Policy Office	WWF agrees with the EIOPA proposal (Article 269). We consider that risk management is a core area for ensuring the proper integration of sustainability risks.	Noted

ClientEarth	We consider that identifying and monitoring sustainability risks is already required under the existing risk management provisions. Nevertheless, it is unclear how many insurers have indeed integrated these considerations into their risk management function. In some cases, sustainability appears to fall within the remit of the corporate and social responsibility teams, but is not referred to as a business risk by the risk management function. We therefore consider that the express reference to Article 269(1) will promote greater integration of sustainability considerations into insurers' core functions.	Noted
Principles for Responsible Investment (PRI)	The PRI agrees with the EIOPA view that risks originating from sustainability factors, should be considered within the existing mandate of the administrative, management or supervisory body (AMSB) and key functions. However, we find that this is not yet systematic. Our analysis demonstrates that the lack of regulatory clarity, rather than the novelty of these risks, is a critical barrier to more systematic integration. To that effect, we welcome the introduction of specific language in Article 269 to remove ambiguity and draw attention to the need to assess these risks, in combination with the introduction of the new article in the Solvency II Delegated Regulation on the prudent person principle.	Noted.

AMICE aisbl	It is clear that the role of the risk management function already includes these tasks, as implied in current legislation. The effective integration in the tasks carried out by the risk management function as well as in the risk management policy of the sustainability risks, in the same way as any other risk that emerges due to changes in the external environment in which the company operates, is in line with what is already required by the Solvency II regime. There is no need for clarification of these particular tasks; such identification may also lead to the misinterpretation that they are deemed to be "more important" risks than others where in fact all risks should be dealt with by the risk management function objectively and critically. Insurers already deal with a multiplicity of different risks which are not specified in legislation, and awareness is a much more important tool than detailed regulation. However, this is not to say that the risk management function and policy should not be updated to include these types of risks, though the definition and business limits of such should be determined by the individual entity.	EIOPA agrees that the identification and assessment of sustainability risks should already be under the control of the risk management function; it is acknowledged, however, that practice differs among undertakings. The proposed reference is aimed to add clarity while allowing sufficient flexibility.

ICODA European Affairs	EIOPA considers (par 17) sustainability risks as materializing through existing risk categories such as credit and property risk. It does not consider sustainability risk as a subcategory of emerging risk and proposes that the risk management function includes the identification of emerging risks and sustainability risk. The implications of that logic are that, prior to changing the delegated act article 269(1), the following article of the SII framework directive merits first and foremost a change to support such suggested changes in the delegated act: "Article 41,5: 5. The supervisory authorities shall have appropriate means, methods and powers for verifying the system of governance of the insurance and reinsurance undertakings and for evaluating emerging risks identified by those undertakings which may affect their financial soundness." and that in that article next to emerging risks also sustainability risks are added. And that this article is amended as follows: "5.The supervisory authorities shall have appropriate means, methods and powers for verifying the system of governance of the insurance and reinsurance undertakings and for evaluating emerging risks AND SUSTAINABILITY RISKS identified by those undertakings which may affect their financial soundness." If not, the inclusion of sustainability risks in L2 cannot be verified by supervisory authorities and NCAs, what is ultimately the impact on EIOPA's BoS, composed of NCAs, if its members do not have the necessary competences? At the same time, EIOPA states that sustainability risks are materialized in existing risk categories. If that is the case, why is explicit mention necessary? (see further reply to Q4 on definitions of risk categories) The framework directive does not foresee the inclusion of sustainability risks, nor in the description of the risk management function or any other function. It would be more coherent and legally less debatable to include the requirement to consider sustainability risks first in the L1 text and to include another category next to emerging risks first and foremost in the L1 text. It is not because the EU is politically very serious about sustainability and that many of us have a warm heart towards this very important issue that the logic of the framework directive should not be respected. It is after all in the interest of good governance that first the L1 text is changed and thereafter the L2 text, especially when it concerns such a novel and potentially far reaching impacting issue.	EIOPA, within the scope of the Call for Advice received from the COM, proposed amendments to the Solvency II Delegated Regulation and not to the Directive. These amendments are deemed consistent with the provisions in the Directive. EIOPA consider that the current wording of Article 41(5) as well as Article 34 of the Solvency II Directive provide supervisory authorities with the necessary powers to review the compliance of undertakings with the Solvency II Delegated Regulation, including the proposed amendments..

	Therefore, in line with the request from EIOPA to describe an alternative, to suggest to the Commission corresponding and relevant changes to the L1 text would be the most logical alternative so as to create a robust and solid basis for (re)insurance undertakings to consider systematically and throughout the business system sustainability risks and for supervisors and EIOPA to be able to supervise unchallenged sustainability risks in the interest of the protection of policyholders and beneficiaries, which is the ultimate objective of supervision (art 27 SII framework directive). In addition, I would like to underline that a series of amendments to change the SII framework directive in the direction of including sustainability were not withheld by the ECON committee in its final report of the MIFIDII/SII part of the ESFS package. Does this carry a formal indication of the will of co-legislators? And should that will be discarded via a change in L2?	

2° Investing Initiative	The HLEG on Sustainable Finance specifically warned against using the broad concept of integration of ESG factors/ risks but rather recommended the ESAs to mandate the extension of the time horizon of the risk analysis in line with the time horizon of beneficiaries' investments (See table on page 42 of the HLEG Final report). This would allow the risk analysis to capture all long-term, non-linear and non-cyclical risks (including any ESG related risks such as climate related risks).	The consideration of risks in the long term is explicitly requested under the Solvency II provisions related to ORSA.

IRSG	Yes, in fact, already now financial material sustainability risks are implicitly taken into account in risk management, ORSA and decision processes of AMSB. The proposed explicit references might help insurers to further integrate sustainability risks in the risk management function. In order to ensure that the focus on the policyholder's protection is maintained, we suggest that the amendment to point (e) be revised to include the words "…which affect the undertaking's risk profile" at the end. We also explicitly support the statement in paragraph 17 of the consultation paper (ie "sustainability risks, in the same way as legal or emerging risks, tend to materialize through existing risk categories such as credit risk or property risk" and "EIOPA does not consider sustainability risks to be a sub-category of emerging risks"). Sustainability risks should be considered at the same level as other risks, being more of a new risk driver rather than a separate category. There is a risk that isolating sustainability risks in the regulation may give inappropriate emphasis to sustainability potentially at the expense of other risks. Overall, the draft technical advice appears to support the general principle that undertakings are already required to consider material sustainability risks. The majority of EIOPA's proposed amendments seem to be aimed at clarifying this, rather than introducing any new principles. We agree with and welcome this approach for material sustainability risks which may result in financial losses (e.g. the financial risks associated with climate change). That being said, the draft advice does not propose a definition for sustainability risks, and makes no distinction between insurance- and company-specific financial sustainability risks and those risks which are "non-financial". It is not clear whether the existing framework would be effective for integrating sustainability risks which may result in damage to the environment or society, but not in direct financial losses to the undertaking. EIOPA may wish to emphasise to the EU Commission that Solvency II legislation, as prudential insurance regulation, is not designed to address the wider societal risks and implications. We agree that the principle of proportionality should remain central and this should lead to simplification of approach for smaller and less complex insurers. Shortage of ESG skills could be a particular barrier for smaller	Noted. It has been clarified that for the purposes of the technical advice, "sustainability risks" should be understood as risks that could affect the insurance and reinsurance undertakings' risk profile, on the investments and liabilities side, due to ESG factors.

	undertakings. The EIOPA consultation paper mentions a gap in the necessary skills and knowledge to identify, measure and manage sustainability risks. This is a fundamental issue because the prudent person principle relies on the fact that an insurance undertaking will only invest in assets and instruments whose risks can be properly identified, measured, monitored, managed, controlled and reported (point 49). EIOPA should engage with the risk management community with regards to the ways in which these risks can be identified and measured through quantitative and qualitative methods.	
4. Would you propose any other amendment to the organisational requirements in the Solvency II Delegated Regulation to ensure the effectiveness and adequacy of sustainability risk integration?		
The Personal Investment Management	No comment	Noted

and Financial Advice Association (PIMFA)		
Schroders plc	No.	Noted
Allianz	No.	Noted
Investment and Life Assurance Group	No	Noted
SD-M GmbH	No.	Noted
European Funds and Asset Management Association (EFAMA)	No.	Noted
Eumedion	No. We are of the opinion that disproportionate regulation (and hence disproportionate costs) should be avoided. We agree with EIOPA that an explicit reference to sustainability risks in the requirements on the content of the remuneration policy and the fitness requirements would not be coherent with the current level of detail of the Solvency II Delegated Regulation (see p. 11 of the consultation paper). EIOPA correctly states in the consultation paper (p. 12) that sustainability risks could already be taken into account when assessing individual performance. Furthermore, we are of the opinion that the right set of skills, knowledge and expertise should be present in the boardroom of insurers. We concur with EIOPA that it is not necessary to adapt the fitness requirements and that under the current fitness requirements in the Solvency II Delegated Regulation insurers could adapt their internal policy and implement training programs to ensure a sufficient understanding of sustainable risks by the administrative, management or supervisory board and relevant functions within the company.	Noted

BVI	We generally agree with EIOPA's approach to be consistent with existing regulation in the way the requirements regarding sustainability issues are expressed when compared with other issues. For instance, we agree that the requirements regarding sustainability risks should not be more detailed or descriptive than with respect to any other risks. Since the integration of ESG considerations and assessment of risks is a process, a principle based approach facilitate such process and are likely to be compatible with future developements e.g. regarding a common understanding of sustainability. We also appreciate that EIOPA mostly allows for the insurance company to take the beneficiaries' interests into account by regularly including the term „where relevant" into the proposed texts including the texts on product governance and target market. We believe and understand that sustainability risks should only be considered as long as they are financially material.	Noted
Actuarial Association of Europe (AAE)	The AAE feels it may be best to accept reference to practices that are being established elsewhere, while expounding general principles. As an example, we can imagine an upper and lower level to the RMF as described by the TCFD in Figure 2 of https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/190110-sustainable-finance-teg-report-climate-related-disclosures_en.pdf : • Upper level: strategy on climate (risks/opportunities, their impact and the undertaking resilience) with a clear involvement of the board • Lower level: internal control on metrics and targets	While the technical advice does not include a specific amendment in the Solvency II Delegated Regulation with respect to the role of the Board, the Board is the ultimate responsible for a sound system of governance, including the approval of risk management policies, the investment strategy and the key functions reporting.

German Insurance Association	No, in our view there is no need to propose any other amendment to ensure the effectiveness and adequacy of sustainability risk integration. We agree with EIOPA´s view that fitness requirements and the content of the remuneration policy do not need to be adapted on Level 2 as the delegated acts do not contain any specific organisational provisions for particular risk areas. We agree that further explicit reference to sustainability risks would not be coherent. We regard it as appropriate and sufficient if – with particular consideration of the proportionality principle - undertakings are requested to ensure the necessary expertise. Other than proposed by the European Commission EIOPA wants to apply the requirements to all undertakings (life and non-life). We believe this is not justified. Given, that sustainability risks mostly materialise long-term we believe that additional requirements should not be introduced for property & casualty insurers that generally have a significantly shorter duration on both the asset and the liability side compared to life insurers. In Germany the modified duration for assets of life insurers is 11 while it is only 6 for property & casualty insurers. Should property & casualty insurers nevertheless fall in the scope of additional requirements we suggest to at least introduce a threshold for small property & casualty undertakings so that small property & casualty undertakings are excluded from the scope.	Noted. EIOPA considers that applying sustainability related requirements to all insurance and reinsurance undertakings under Solvency II (both life and non-life) is coherent with the current Solvency II approach and takes into account that non-life insurers and reinsurers are also exposed to sustainability risks. It is acknowledged that in view of each undertaking's risk profile a proportionate application of the provisions is expected, considering the general application of the proportionality principle. The introduction of thresholds to completely exclude small undertakings is not deemed consistent with the current approach in the Solvency II framework.

Finance Watch	For sake of legal clarity, the Regulation should also include an explicit definition of sustainability risk. This is needed in order to clarify that for the purpose of Solvency II, the sustainability risks refer to the environmental, social and governance (ESG) factors which are deemed to be financially material. This is important for ensuring that all actors covered have the same understanding of the sustainability risk, given also the ongoing Commission legislative proposal on the “Disclosure of sustainability investment and sustainability risk”, where in the European Parliament position the concept of sustainability risk is not limited only to the possibility that financial performance of a financial product might be impacted by ESG factors, but also that the financial product might have negative environmental or social impacts.	It has been clarified that for the purpose of the Advice, sustainability risks could be understood as risks that could affect the insurance and reinsurance undertakings’ risk profile, on the investments and liabilities side, due to ESG factors. EIOPA agrees that defining sustainability risks as “financially relevant” would not reflect the complex nature of sustainability risks and would be inconsistent with the treatment of other risks in Solvency II. The consideration of negative environmental or social impacts is captured in the proposal for Article 275bis(2) under the prudent person principle.

FERMA - Federation of European Risk Management Associations	A transition period is needed to acquire the necessary skills and knowledge to identify, assess and manage ESG risks. The EIOPA consultation paper mentions a gap in the necessary skills and knowledge to identify, measure and manage sustainability risks. We believe it is a fundamental issue because the prudent person principle relies on the fact that an insurance undertaking will only invest in assets and instruments whose risks can be properly identified, measured, monitored, managed, controlled and reported (point 49). Therefore, a transition period is needed to ensure that the internal capacities are sufficient to produce reliable data on sustainability. We recommend EIOPA engage with the risk management community with regards to the methods in which these risks can be identified and measured through quantitative and qualitative methods. We also point out that the ESG skills shortage is a particular barrier for small insurance entities and thus we highlight the need for proportionality and a simplified approach for such organisations in the application of these changes.	While a specific transition period is not proposed, the difficulties around data are acknowledged. The proposals are deemed sufficiently flexible to allow for a proportionate application.

Insurance Europe	No, no other amendment to the organisational requirements in the Solvency II Delegated Regulation is necessary to ensure the effectiveness and adequacy of sustainability risk integration. Regarding the fitness requirements and the content of the remuneration policy, the insurance industry agrees with EIOPA's view that they do not need to be adapted in Level 2 as the delegated acts do not contain any specific organisational provisions for specific risk areas. While Insurance Europe acknowledges EIOPA's reference to guidelines (paragraphs 38, 42 44 and 45 of the consultation paper) as the proper instrument to further develop the organisational requirements on sustainability risks, it does not see a need for further, additional, guidelines on these topics. In addition to EIOPA's proposed changes to the delegated acts under Solvency II and IDD, more clarity and transparency would be beneficial in terms of the harmonisation and standardisation of published information on sustainability, eg at fund level and at debt/equity issuance. EIOPA should recognise the current sparseness of data which represents an obstacle to monitor sustainability exposures. Information and related data would need to be available and transparent across the whole financial sector and various markets players. This would also facilitate and improve the integration of sustainability risks in the insurers' investment processes. Equally important, Insurance Europe emphasises the need for proportionality with respect to information requirements associated with the integration of sustainability risks. Excessive additional burden on small insurers with respect to any new information requirements should be avoided. This could be achieved by introducing thresholds to exclude small insurers from the most costly/burdensome requirements. For example, obtaining specific sustainability-related information in order to comply with mandatory requirements could end up being unreasonably demanding for small insurers, especially when having to obtain this information from third party providers, eg rating agencies or asset managers.	Noted. With respect to the possibility to issue guidelines it should be noted that EIOPA has identified relevant areas affected by the integration of sustainability risks where further supervisory guidance could be useful but this does not imply a concrete decision on the publication of EIOPA guidelines on these areas. EIOPA acknowledges that at this stage data availability is particularly challenging. It is noted that in view of each undertaking's risk profile a proportionate application of the provisions is expected, considering the general application of the proportionality principle. EIOPA considers that the proposals to amend Solvency II Delegated Regulation are sufficiently flexible to allow for a proportionate application. The introduction of thresholds to completely exclude small undertakings is not

		deemed consistent with the current approach in the Solvency II framework.

WWF European Policy Office	Building on the relevant changes proposed by EIOPA in Article 269, we believe that it is needed to also integrate similar clarifications in other article, to ensure a proper implementation of Article 269. This concerns: - Article 273 (fitness requirements), to add that the skills of the person should include sustainability-related knowledge and experience; - Article 274 (outsourcing), to clarify that it should include sustainability risks: - Article 275 (remuneration), to add that on-financial criteria include sustainability-related issues.	EIOPA agrees that fitness requirements, outsourcing and remuneration are relevant aspects to be considered for the proper integration of sustainability risks in the insurance and reinsurance undertakings internal processes. Nevertheless, an amendment of Articles 273 and 274 is not deemed necessary, in particular considering that the current wording of those articles does not include explicit reference to other risk areas. The proposed inclusion of explicit references to sustainability in the provisions on risk management and prudent person principle already implies that sustainability aspects would need to be considered regarding: - fitness of individuals responsible for the implementation of those provisions;

		- relevant outsourcing arrangements (e.g. outsourcing of investments management); and While amendment of Solvency II Delegated Regulation on these topics could be unbalanced, EIOPA agrees that some guidance might be helpful to ensure common understanding. With respect to remuneration a reference to sustainability aspects is proposed to be added in Article 275 of the Solvency II Delegated Regulation, in particular in view of the compromise text of the Regulation on sustainability-related disclosures in the financial sector.

Principles for Responsible Investment (PRI)	Yes. The PRI recommends that disclosure requirements of the delegated regulation are also updated to require disclosure on the integration of sustainability issues into governance and risk management. This will be critical to ensure that regulators, beneficiaries and policy-holders have adequate information and can understand and assess the insurer's practices. In addition, the PRI supports EIOPA's proposal to provide additional guidance on aligning remuneration strategy with sustainability objectives. Amendments in both of these areas should complement and support the requirements in Solvency II and also align with emerging proposals on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341. The PRI also supports providing additional guidance to support the evaluation of "fit and proper" requirements, in line with recommendation 7 of the High Level Expert Group on Sustainable Finance. This guidance should make clear that fit and proper tests should include an assessment of the individual and collective ability of the members of governing bodies to address sustainability risks and opportunities, to understand the stakeholder context and to take account of clients' sustainability preferences.	EIOPA agrees on the relevance of public disclosure requirements. It should be noted, however, that the scope of the Commission's call for advice is focused on governance aspects. EIOPA agrees that fitness requirements are relevant aspects to be considered for the proper integration of sustainability risks in the insurance and reinsurance undertakings internal processes and further guidance on the topic could be useful. With respect to remuneration a reference to sustainability aspects is proposed to be added in Article 275 of the Solvency II Delegated Regulation, in particular in view of the compromise text of the Regulation on sustainability-related disclosures in the financial sector.

AMICE aisbl	We believe that the current Solvency II requirements are already appropriately structured to ensure the effectiveness and adequacy of sustainability risk integration, therefore no further amendments are needed. It should be noted that in the absence of other aspects of the sustainability proposals it is impossible to assess whether any amendments would be suitable. The Solvency II regime is already clear and thorough for the treatment and management by the organisation of all aspects of risk and risk integration.	Noted.

ICODA European Affairs	I would propose first and foremost amendments to the L1 text (= SII framework directive). The SII framework directive does not foresee the inclusion of sustainability risks, nor in the description of the risk management function or any other function, or any other element of the framework. It does not even include these risks in the definitions. To follow the logic of EIOPA that sustainability risks is materializing through existing risk categories such as credit and property risk, it would be more transparent and consistent to change first article 13 of the SII framework directive with for example a change to par 30-32: "(30) 'underwriting risk' means the risk of loss or of adverse change in the value of insurance liabilities, due to inadequate pricing and provisioning assumptions, including assumptions related to sustainability on the liabilities; (31) 'market risk' means the risk of loss or of adverse change in the financial situation resulting, directly or indirectly, from fluctuations in the level and in the volatility of market prices of assets, liabilities and financial instruments, including fluctuations relating to sustainability risks; (32) 'credit risk' means the risk of loss or of adverse change in the financial situation, resulting from fluctuations in the credit standing of issuers of securities, counterparties and any debtors to which insurance and reinsurance undertakings are exposed, in the form of counterparty default risk, or spread risk, or market risk concentrations, including sustainability risks; It would also be important to amend Article 51 of the SII framework directive accordingly and to foresee some form of disclosure (e.g. on the risk of stranded assets?). In any case, it would be more coherent and legally less debatable to include the requirement to consider sustainability risks first in the L1 text and to include another category next to emerging risks first and foremost in the L1 text. It is not because the EU is politically very serious about sustainability and that many of us have a warm heart towards this very important issue that the logic of the framework directive should not be respected. It is after all in the interest of good governance that first the L1 text is changed and thereafter the L2 text, especially when it concerns such a novel and potentially far reaching impacting issue. The suggestion of EIOPA to solve some elements via guidelines is more fraught with uncertainty in the light of the current ESFS package under discussion. Stakeholders have underlined the need for the powers of the ESAs in the area of guidelines to remain explicitly within the competences of the remit of the ESAs. The ESAs competences are linked to the enumerated directives and regulations of article 1,2 which in the case of EIOPA include the SII framework directive. Hence if in the SII framework directive there are no competences given regarding	In responding to the Commission Call for Advice on possible amendments to the Solvency II Delegated Regulation, EIOPA has proposed amendments which are deemed consistent with the text of the Solvency II Directive and coherent with the current approach in level 2.

	sustainability risks, this avenue seems not a good idea. Such important inclusion, namely the inclusion of sustainability risks in the SII system which is based on a clear political and strategic choice of the EU should not be introduced as an obligation via a L2 text or even L3. Therefore, in line with the request from EIOPA to describe an alternative, to suggest to the Commission corresponding and relevant changes to the L1 text would be the most logical alternative so as to create a robust and solid basis for (re)insurance undertakings to consider systematically and throughout the business system sustainability risks and for supervisors and EIOPA to be able to supervise unchallenged sustainability risks in the interest of the protection of policyholders and beneficiaries, which is the ultimate objective of supervision (art 27 SII framework directive).	

2° Investing Initiative	We would strongly advise EIOPA to adhere to the recommendations of the HLEG on Sustainable Finance (HLEG) regarding the integration of ESG risks (see Q3). We stand ready to provide to EIOPA staff detailed information and analysis on potential ways forward to implementing the approach as recommended by the HLEG, if this is deemed useful. Given that the following questions assume an approach that clearly disregards the HLEG recommendations despite its warning, we will not comment further on the proposed details related to the Solvency II Delegated Regulation.	EIOPA technical advice is deemed consistent with the scope of the Call for Advice from the Commission. At the same time, EIOPA does not share the view that the proposed approach is in contradiction with the recommendations of the HLEG. In particular, with respect to the consideration of risks in the long term, all proposed amendments should be understood in the context of the Solvency II Directive and Delegated Regulation.
IRSG	No. We support EIOPA's view regarding the fitness requirements and the content of the remuneration policy. Specifically, the fitness requirements and the content of the remuneration policy do not need to be adapted in Level 2 as the Delegated Regulation does not contain any specific organisational provisions for specific risk areas. Adding explicit reference to sustainability risks would not be consistent with this approach. In addition to EIOPA's proposed changes to the Delegated Regulation under Solvency II and IDD, the integration of sustainability risks in the insurers' investment processes would also benefit from more clarity with regard to the role of asset/fund managers and debt/equity issuers in terms of the sustainability information they are required to publish. This is key especially given the high level of outsourcing of these activities.	Noted. EIOPA considers that fitness requirements and outsourcing are relevant aspects to be considered for the proper integration of sustainability risks in the insurance and reinsurance undertakings internal processes and further guidance on both topics could be useful. Further detailed in the Solvency II Regulation might be unbalanced with

		respect to treatment of other types of other risks. With respect to remuneration a reference to sustainability aspects is proposed to be added in Article 275 of the Solvency II Delegated Regulation, in particular in view of the compromise text of the Regulation on sustainability-related disclosures in the financial sector.
5. Do you agree with the proposed new article for the integration of sustainability risks into the prudent person principle?		
Schroders plc	No	Noted.
Investment and Life Assurance Group	Yes	Noted.
SD-M GmbH	Yes	Noted.
European Funds and Asset Management Association (EFAMA)	No	Noted.
Eumedion	No	Noted.
BVI	No	Noted.
Actuarial Association of Europe (AAE)	No	Noted.

German Insurance Association	No	Noted.
Finance Watch	Yes	Noted.
FERMA - Federation of European Risk Management Associations	Yes	Noted.
Insurance Europe	Yes	Noted.
WWF European Policy Office	Yes	Noted.
ClientEarth	Yes	Noted.
Principles for Responsible Investment (PRI)	Yes	Noted.
AMICE aisbl	No	Noted.
ICODA European Affairs	No	Noted.
Please give reasons for your answer:		
The Personal Investment Management and Financial Advice Association (PIMFA)	No comment	

Schroders plc	We welcome ESMA's approach to look at sustainability in an integrated way, particularly acknowledging the important role of stewardship/company engagement in managing sustainability risks. However, the consultation paper fails to differentiate between who is bearing the risk: Where the insurance company bears the investment risk (e.g. P&C insurances and non-unit linked life insurances), it is appropriate that the company itself should manage the ESG investment risks in a way that reflects the duration of the liabilities that it is backing. Only in unit linked business where the actual policyholder bears the investment risk, it is appropriate to take the policyholder's view into account. Secondly, Art. 275bis para. 2 seems to introduce the question of assessing the sustainability impact (non financial impact) of investments which is different from the issue of integrating sustainability risks (=financial impact) into the risk management and investment decision process: The (Commission's) clear intention and the logic of the entire sustainable investment proposal, reflected in the proposal on disclosure requirements and in the mandate for technical advice by EIOPA, are to integrate sustainability risks across the board, similar to other risk categories. Hence also the correct title of Art. 275bis "Integration of sustainability risks in the prudent person principle". In turn, the scope of assessing the sustainability impact captures only investments explicitly targeting/marketed as sustainable investments (hence a particular subset of investments). However, the wording of Art. 275bis para. 2 would require a sustainability impact (= non financial) assessment in any investment decision. We would therefore believe that para. 2 needs to be deleted. Finally, the consultation paper lacks any description on how ESG preferences should be assessed in practice.	EIOPA has clarified its advice with regard to the requirement to reflect ESG preferences of policyholders of the target market identified according to Article 25 of Directive 2016/97. EIOPA's proposal for considering the impact of investments on ESG factors is consistent with a prudential risk-based approach, by which (re) insurers should consider how their investments (or underwriting practices) would contribute to a better understanding, monitoring and management of risks. Further clarification has been provided in the analysis. The question how ESG considerations are taken into account in the context of the PPP mainly

		depends on the design of the products and which ESG preferences have been considered for the identification of the target market of the individual insurance product. The management of assets with regard to the ESG preferences of the customers should match the ESG preferences which underlie the target market assessment in the context of the product design. Whereas EIOPA considers it too premature to provide further guidance to the market on standards for the identification of the target market with regard to ESG preferences, EIOPA would like to emphasise that a reference to ESG preferences, only, without further specification would lack the necessary level of granularity in view of the broad scope of possible ESG considerations.

Allianz	As regards Article 275bis first paragraph, that explicitly introduces sustainability risks to be assessed as part of the prudent person principle, it is redundant. Similarly to the consideration of sustainability risks as part of the risk management process, the prudent person principle as defined in current legislation already requires to consider any factors that impact the security, quality, liquidity and profitability of the portfolio. While we are supportive of considering sustainability aspects as an integral part of business processes, an explicit reference to sustainability risks in prudential regulation, which is meant to protect policyholders' direct financial interests in fulfillment of insurance contracts, must in practice facilitate a balanced consideration of all factors of the prudent person principle. The implications of the first part of Article 275bis second paragraph, requiring undertakings to take into account the potential long-term impacts of investment decisions on sustainability factors, are not made sufficiently clear to allow an assessment of its practical consequences in a prudential assessment of the investment process. As the proposal is worded, it may result in a contradiction to Article 133 of the Solvency II Directive (freedom of investment). Furthermore the requirement to consider the impact of investment allocations on general sustainability factors is much broader than the current prudent person principle (that focuses on impacts of risks on the financial situation of the company) and may entail a contradiction to the requirement to act in the best interest of existing stakeholders of the company (including policyholders) as regards the contractual commitments made by the company towards their stakeholders. While regulation in other policy areas may approporiately address general issues of "stewardship" and of directing macroeconomic capital flows, it seems inappropriately placed in prudential insurance regulation that addresses financial interests of stakeholders of the regulated company over the term of their underlying committments. We suggest not to address broader macro-economic policy issues in prudential regulation and recommend to delete this part. We support the principle-based approach of EIOPA towards integration of sustainability risks in Solvency II.	EIOPA's advice states that sustainability risks should be assessed within the assessment of the prudent person principle, allowing for a balancing of the elements of security, quality, liquidity and profitability. EIOPA has clarified in its analysis that the second paragraph of Article 275bis does not require undertakings to invest only in "sustainable investments", or to submit to lower risk-adjusted returns. The second paragraph has been clarified accordingly. EIOPA's proposal for considering the impact of

	Should the Commission insist on the explicit integration of sustainability risks in the legal texts, as expressed in the request for technical advice (see section “1. Introduction” of the EU Com letter), we • support the wording proposal made by EIOPA for Art. 275bis (1) • suggest to remove Art. 275bis (2) and the proposed new recital, since the objective of prudential regulation is the protection of customers’ financial interests resulting from direct contracts with the undertaking. It seems that the proposed addition is out of scope of prudential regulation. From a practical perspective it appears impossible to “take into account” all long-term impacts of investment decisions on sustainability factors. The ESG preferences of policyholders and beneficiaries are too heterogeneous to be taken into account in general account insurance business.	investments on ESG factors is consistent with a prudential risk-based approach, by which (re) insurers should consider how their investments (or underwriting practices) would contribute to a better understanding, monitoring and management of risks. EIOPA has clarified its advice with regard to the requirement to reflect ESG preferences of policyholders of the target market identified according to Article 25 of Directive 2016/97.

Investment and Life Assurance Group	Awareness and understanding of sustainability risks is increasing. The inclusion of a sustainability risk consideration into the Prudent Person Principle is welcomed, as a necessary amendment to promote a consistent approach. The term 'sustainability risk' should be more clearly defined. The discussion in paragraphs 10 to 17 is helpful but does not provide a clear direction. We welcome the 'where relevant' clarification in relation to policyholder preferences. Determining preferences will be difficult unless they are clearly set out as an objective in the design of a product.	It has been clarified that for the purpose of the Advice, sustainability risks could be understood as risks that could affect the insurance and reinsurance undertakings' risk profile, on the investments and liabilities side, due to ESG factors. EIOPA has clarified its advice with regard to the requirement to reflect ESG preferences of policyholders of the target market identified according to Article 25 of Directive 2016/97.

SD-M GmbH	Yes, but one should add the word "RELEVANT": 1. Within the prudent person principle, insurance and reinsurance undertakings shall take into account RELEVANT sustainability risks when assessing the security, quality liquidity, and profitability of the portfolio as a whole. 2. Insurance and reinsurance undertakings shall take into account the potential long-term impact of investment decisions on RELEVANT sustainability factors and, where relevant, reflect the environmental, social and governance preferences of policyholders and beneficiaries.	It has been clarified that for the purpose of the Advice, sustainability risks could be understood as risks that could affect the insurance and reinsurance undertakings' risk profile, on the investments and liabilities side, due to ESG factors. Further defining sustainability risks as "relevant" would be inconsistent with the treatment of other risks (e.g. reputational or legal risks).

European Funds and Asset Management Association (EFAMA)	We can agree in general with the integration of sustainability risks in the prudent person principle, but we consider that the way this is articulated in the new article 275 bis is linked more to the concept of sustainable investment rather than the concept of sustainability risks. As explained in our response to Question 1, it is necessary to draw a clear distinction between risks to the performance of an investment from ESG considerations, that should be the definition of sustainability risk and risks to environment and society from investments, which is a concept linked to sustainalbe investments. It is also important to stress that the mandate to EIOPA is to integrate sustainability risks and factors to Solvency II and not the notion of sustainable investment. However, requiring insurance and reinsurance undertakings to take into account the potential long-term impact of investment decisions on sustainability factors and, where relevant, reflect the ESG preferences of policyholders and beneficiaries, falls more in the scope of assessing the sustainability impact of an investment and not in teh scope of assessing the risks to the performance of the investment and hence to the financial interests of the policyholders. In fact, taking a decision on the basis of the long-term impct of investment decisions on sustainability factors could be to the detriment of the interests of the policyholders. Moreover, it should be kept in mind that pursuing and assessing additional data related to the potential impact of investment decisions on external sustainability factors would increase costs for policyholders. We also note that EIOPA's justification for this additional requirement for insurance companies to assess the potential long-term impact of their investments on sustainable factors is based on the existing engagement strategies applied by such companies to steer the activities of the assets they are holding. However, the principle of stewardship refers to the possibility to influence the business of the investee, which as much as we support, is different from the material factors that are to be taken into consideration when assessing the materiarily of a risk on the investment of the company. Moreover, a reference is made to IORP II in relation to the prudent person rule, for which we would like to underline that the relevant provision allows Member States to take into account the potential long-term impact of investment decisions on ESG factors, but doesn't require them to do so. Therefore, the IORP II reference to long-term impact assessment captures impact investing and gives the possibility to investors to make decisions on how their investment is used, but doesn't require them to go towards impact investment neither does it refer to the risk management and assessment process, that is linked only to material risks.	It has been clarified that for the purpose of the Advice, sustainability risks could be understood as risks that could affect the insurance and reinsurance undertakings' risk profile, on the investments and liabilities side, due to ESG factors. EIOPA's proposal for considering the impact of investments on ESG factors is consistent with a prudential risk-based approach, by which (re) insurers should consider how their investments would contribute to a better understanding, monitoring and management of risks. EIOPA has clarified in its analysis that the second paragraph of Article 275bis does not require undertakings to invest only in "sustainable investments", or to submit to lower risk-adjusted returns. The

		second paragraph has been clarified accordingly. As to the reference to IORPII, EIOPA favours a harmonised approach under Solvency II.

Eumedion	The prime responsibility of an insurer is to secure the best possible return over the long term for its policyholders and beneficiaries, against the background of a sound risk management framework and within its own framework regarding the integration of environmental, social and governance factors into its investment process. The Solvency II Directive already requires that insurers invest their assets in accordance with the prudent person principle. As correctly stated on p. 15 of the consultation paper, the prudent person principle allows for sustainability risks to be taken into account, in analogy with other risks but does not require explicitly that undertakings consider these risks. We believe that insurers must take into account all risks, including sustainability risks. Eumedion believes that the wording of the proposed article 275bis (1) could unintentionally imply that other risks are of less importance. Therefore, we suggest to slightly amend the wording and to replace "shall take into account sustainability risks" by "shall take into account emerging risks including sustainability risks". We would like to make some comments with respect to the proposed article 275bis (2). We believe that insurers must take into account the potential long-term impact of investment decisions on environmental, social, and governance factors and that they should periodically discuss the possibilities and developments in the area of socially responsible and sustainable investment with their policyholders and beneficiaries. This may provide insurers with valuable insights regarding the direction of the responsible and sustainable investment strategy. Eumedion has reservations regarding the introduction of a requirement on the basis of which insurers should (where relevant) reflect the environmental, social and governance preferences of policyholders and beneficiaries. Such a requirement may complicate and possibly contradict with the fiduciary duty of insurers that provide general portfolio investment products. According to the Solvency II Directive insurers must invest assets in the best interest of all policyholders and beneficiaries. The preferences and best interests of all policyholders and beneficiaries might in case of general portfolio management not be known or identical. Therefore, it will (as correctly stated on p. 17 of the consultation paper) not be materially possible to reflect all policyholders' preferences in those cases. Furthermore, we wonder what the cohesion is between this consultation paper and the proposal for a regulation of the European Parliament and of the Council on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341 (COM (2018) 354 final).	It has been clarified that for the purpose of the Advice, sustainability risks could be understood as risks that could affect the insurance and reinsurance undertakings' risk profile, on the investments and liabilities side, due to ESG factors. EIOPA does not consider sustainability risks to be a sub-category of emerging risks. Some sustainability risks may still be emerging, but some are already having an impact, such as physical damage to assets caused by environmental risks. EIOPA has clarified its advice with regard to the requirement to reflect ESG preferences of policyholders of the target market identified according to Article 25 of Directive 2016/97. This clarification ensures that the investments

		correspond with the expectations of the target market and establishes the necessary link between the prudent person principle, the ESG-profile of the insurance product and the identification of the target market. The definition of "sustainability risks" for the purpose of the technical advice has been highlighted. The changes to the definition of "sustainable investment" in the compromise text of the Regulation on sustainability related disclosures has been noted. These changes are not deemed inconsistent with EIOPA's proposals.

BVI	- We are very concerned about the suggestion that insurers shall take into account the potential long-term impact of investment decisions on sustainability factors in Art. 275bis (2). While we agree that insurers should also use engagement strategies in order to improve activities of investee companies including with relation to sustainability, the suggested proposal goes beyond this. “Taking into account” (wording of the legislative proposal) or “assessing” (wording of the explanation, paragraph 62) indicates that beyond any materiality on the investment of the insurer, other factors have to be considered. - This in fact would steer investments of insurers in the direction of impact investments - thereby altering the concept of investments altogether. The reference to the IORP II is not captured correctly since this only allows IORPs and does not require them to take the potential impact into account. Consequently, member states shall allow impact investing but not require it. Beneficiaries/investors need to make a decision on how their money is used and should not be require to use it in a specific way, e.g. for impact investments. - Furthermore, insurers would be (regardless of the policy holders preferences or not) required to purchase and assess data for potential impacts on external sustainability factors which will increase costs for policy holders. - Lastly, the suggestion is not in line with he EC's request for advice which is specifically only referring to sustainability risks and not to the impact on sustainability factors. - We therefore urge EIOPA to change the wording in order to ensure that such factors need to be materially relevant for the investment or delete the paragraph altogether. It should also be clear that preferences of policy holdes can only be relevant for products where the policy holder is bearing the risk of the fluctuation of the investment.	EIOPA’s proposal for considering the impact of investments on ESG factors is consistent with a prudential risk-based approach, by which (re) insurers should consider how their investments would contribute to a better understanding, monitoring and management of risks. EIOPA has clarified in its analysis that the second paragraph of Article 275bis does not require undertakings to invest only in “sustainable investments”, or to submit to lower risk-adjusted returns. The second paragraph has been clarified accordingly. Further defining sustainability risks as “material”, “relevant” or “financially relevant” would not reflect the complex nature of sustainability risks and would be inconsistent with the treatment of other risks (e.g. reputational risks). The

		regulatory approach needs to allow for evolving understanding and techniques. EIOPA has clarified its advice with regard to the requirement to reflect ESG preferences of policyholders of the target market identified according to Article 25 of Directive 2016/97.

Actuarial Association of Europe (AAE)	The sentence "where relevant, reflect the environmental, social and governance preferences of policyholders and beneficiaries" seems to be a difficult task for insurers. Even if insurers knew their policyholders' ESG preferences, which may well not be the case, it may be difficult to take these preferences into account in the investment process. As there is lack of awareness of what sustainability means, what risks it keeps inside, on the taxonomy, etc., there might be a serious risk of non-compliance with the regulation if too strictly defined. Additionally, for many products (for example generic euro funds or non-life portfolios), aligning asset allocation with expected policyholders ESG preferences may be highly impractical. For Unit-linked funds, the policyholders' preferences might be more easily available, at least for new sales. Should EIOPA wish to keep this objective, it would be necessary to specify clearly which market lines would be concerned. Regarding the inclusion of the "where relevant", this wording might lead to interpretation and to de facto different rules between actors and countries. This risk might be need to handled by supervisory practices or guidance. To require Sustainability in PPP "before the industry knows what sustainability risk actually means" could be a step that risks making the requirement meaningless, especially if the policyholder preferences are there. When insurers are forced to make their own interpretation on sustainability this might lead, in the worst cases, to some definitions and usages, which are far from the common definitions (UN, IPCC etc.) or even to green washing activities.	EIOPA has clarified its advice with regard to the requirement to reflect ESG preferences of policyholders of the target market identified according to Article 25 of Directive 2016/97. Noted. Noted. EIOPA supports transparency on sustainability risks, which would help in promoting best practices.

German Insurance Association	Generally, we support the principle-based approach of EIOPA towards integration of sustainability risks in Solvency II. However, regarding Art. 275bis(1) already now it is the task within the prudent person principle (ppp) to address sustainability risks in the assessment of investments, if they are financially relevant. Therefore, an explicit reference as part of the ppp is viewed as redundant. The ppp as defined in current legislation already requires to consider any factors that impact the security, quality, liquidity and profitability of the portfolio. Should the Commission insist on the explicit integration of sustainability risks in the legal texts, we support the wording proposal made by EIOPA in Art. 275bis(1) but suggest to clarify the term as “financially relevant sustainability risks”. In this respect, we view it positive, that EIPOA wants sustainability risks to be recognised within the existing ppp and not as another criterion alongside security, liquidity, profitability and quality. We agree that sustainability risks tend to materialise through the existing risk categories credit risk and property risk and that they can affect the existing investment principles. The implications of the first part of Article 275bis(2), requiring undertakings “to take into account the potential long-term impacts of investment decisions on sustainability factors”, are not made sufficiently clear. As the proposal is worded, it may result in a contradiction to Article 133 of the Solvency II Directive. The requirement to consider the impact of investment allocations on general sustainability factors is much broader than the current ppp (that focuses on impacts of risks on the financial situation of the company) and may entail a contradiction to the requirement to act in the best interest of existing stakeholders of the company (including policyholders). While regulation in other policy areas may appropriately address general issues of “stewardship” and of directing macroeconomic capital flows, it seems inappropriately placed in prudential insurance regulation that addresses financial interests of stakeholders of the regulated company over the term of their underlying commitments. We suggest not to address broader macro-economic policy issues in prudential regulation and recommend to delete this part. We view the binary approach as easier, better manageable and less costly for all insurers due to the following reasons: -Engagement (in direct as well as indirect investments via funds) is very costly. Especially for small and medium sized insurers the only way to perform engagement within their portfolios is to outsource the necessary engagement activities, which entails considerable costs.	EIOPA’s advice states that sustainability risks should be assessed within the assessment of the prudent person principle, allowing for a balancing of the elements of security, quality, liquidity and profitability. Further defining sustainability risks as “material”, “relevant” or “financially relevant” would not reflect the complex nature of sustainability risks and would be inconsistent with the treatment of other risks (e.g. reputational risks). The regulatory approach needs to allow for evolving understanding and techniques. EIOPA has clarified in its analysis that the second paragraph of Article 275bis does not require

	-The question arises as to the added value. We do not believe it is possible to provide the evidence about the effects of engagement activities in a reasonable manner -Engagement is generally more effective and manageable in equity portfolios than in bond portfolios. However, insurers are mainly bond investors. Engagement is almost impossible with government bonds. Covered bonds might be regulated by special law. -Generally, the overall effectiveness of engagement policies conducted by small and medium sized companies is questionable. -An obligatory stewardship approach would create further legislation in order to clarify what stewardship means, in which cases it is appropriate etc. We would suggest to remove Art. 275bis(2) and the proposed new recital, since the objective of prudential regulation is the protection of customers' financial interests resulting from direct contracts with the undertaking. It seems that the proposed addition is out of scope of prudential regulation. From a practical perspective it appears impossible to "take into account" all long-term impacts of investment decisions on sustainability factors. The ESG preferences of policyholders and beneficiaries are too heterogeneous to be taken into account in general account insurance business. If a stewardship principle is nevertheless followed by EIOPA for all insurers we would suggest to provide small and medium-sized undertakings with more time to gain experience in dealing with ESG concepts before introducing the obligation to implement engagement concepts or to introduce a threshold for small companies. Finally the proportionality principle should be mentioned here explicitly.	undertakings to invest only in "sustainable investments", or to submit to lower risk-adjusted returns. The second paragraph has been clarified accordingly. EIOPA acknowledges the difficulty in identifying, measuring or monitoring sustainability risks today. Sustainability risks add a dimension to an undertakings' risk assessment arising from ongoing changes in environment and society, whose direct or indirect effects may not realise for some time. Such complex risks will require investment in analysis capacity, data and the development of forward-

		looking approaches to risk management, as we are unable to rely as much on historical data for this. EIOPA's proposal for considering the impact of investments on ESG factors is consistent with a prudential risk-based approach, by which (re) insurers should consider how their investments would contribute to a better understanding, monitoring and management of risks. With regard to the policyholders' and beneficiaries' ESG preferences, EIOPA would like to clarify that the requirement seeks to ensure that the undertaking consequently implements in the risk management and

		investment management strategy of the undertaking, the commitments made to policyholders on ESG characteristics of the specific product. In offering ESG-specific products and not investing accordingly, insurers would be exposed to reputational or, potentially, liability risks. The wording has been revised to refer to the preferences of the identified target market. The proportionality principle applies generally in accordance with Article 41(2) of the Solvency II Directive. EIOPA considers that the proposals are flexible enough to allow for a proportionate application.

Finance Watch	We are fully supportive of the article 275 bis (1) to integrate sustainability risk into the person prudent principle in order to make explicit, the already implicit, requirement that the consideration of sustainability risk is in the best interest of policy holders and beneficiaries. The explicit requirement is needed given the climate change financial impacts on the investment portfolios might be significant. Point 2 of article 275(bis) should by complemented by Identify and reflect, given that the ESG preferences should be assessed in a proactive way by the insurance undertakings in order to promote the capital shift.	Noted.

FERMA - Federation of European Risk Management Associations	Yes but we are concerned about the impact these proposals will have upon the design of insurance related products and the offers that clients receive in terms of price and product. Furthermore, if the inclusion of sustainability risk results in an increased cost to insurance organisations, we are concerned about the process of passing this cost onto insurance purchasers. Materiality of ESG elements relates to the ongoing challenge to price externalities, i.e. to quantify and monetise sustainability risks. It is necessary to evaluate how the proposed changes could affect the terms under which an insurance contract is offered. In addition, following announcements from a few (re)insurers that they will no longer insure companies with certain carbon footprints – we are concerned the insurability of companies who are yet to have undergone the transition to sustainable practice may be further affected. If threats to insurability materialise – it is likely businesses will explore the use of captive insurance to ensure their practices are underwritten. As a result, we are concerned about the impact that these proposals will have upon the use of captives.	With regard to the policyholders' and beneficiaries' ESG preferences, EIOPA would like to clarify that the requirement seeks to ensure that the undertaking consequently implements in the risk management and investment management strategy of the undertaking, the commitments made to policyholders on ESG characteristics of the specific product. In offering ESG-specific products and not investing accordingly, insurers would be exposed to reputational or, potentially, liability risks. EIOPA has clarified its advice with regard to the requirement to reflect ESG preferences of policyholders of the target market identified according to Article 25 of Directive 2016/97. This clarification ensures that the investments

		correspond with the expectations of the target market and establishes the necessary link between the prudent person principle, the ESG-profile of the insurance product and the identification of the target market. Noted re insurability. EIOPA agrees that attention should be paid to the insurability, in order not to widen the protection gap, e.g. for natural catastrophese.

Insurance Europe	We agree with the rationale for including sustainability risk (SR) in the PPP, but art 275bis should be improved to ensure consistency and feasibility. As S2 is designed for policyholder(PH) protection, considerations on PH preferences should not be introduced here. Art 275bis(1) PPP allows for adequate integration of ESG risks (see para 54 of CP). Insurers are obliged to properly identify, measure, monitor, manage, control and report all types of risks that could have a potential material impact on investments, including SR. In this respect, we agree with EIOPA that SRs should be recognised within existing PPP and not as another criterion alongside security, liquidity, profitability and quality. This implies that SR should be treated as other risks. Therefore, an explicit reference to SRs in Section 1 of new Art. 275bis should: -not over-emphasise SR at the expense of other risks -refer to “all financially relevant risks” To ensure this, the following amendment is proposed for Art. 275bis (1): “1. Within PPP (re)insurance undertakings shall consider all financially relevant risks the undertaking is or could be exposed to, including SRs, when assessing the security, quality, liquidity, and profitability of the portfolio as a whole.” This would avoid an imbalance in regulatory requirements caused by highlighting only particular risks in an area which is still under development. The clarification would help insurers implement a more proportionate investment strategy in the interest of PH and shareholders. Art 275bis(2) The sector acknowledges EIOPA objective to promote engagement strategies and stewardship activities by (re)insurers so that undertakings are encouraged to consider the potential impact of investment decisions on the environment, human rights, corruption and other sust factors. However, the meaning of Art 275bis(2) is not entirely clear and risks distorting the S2 framework in its current wording.	Further defining sustainability risks as “material”, “relevant” or “financially relevant” would not reflect the complex nature of sustainability risks and would be inconsistent with the treatment of other risks (e.g. reputational risks). The regulatory approach needs to allow for evolving understanding and techniques.

	Also, it is essential to clarify that the requirement "to take into account potential long-term impact of investment decisions on sust factors" does not imply investment restrictions and/or limitations, which would contradict the principle of freedom of investment in Art 133 of the S2 Dir. The sector considers that assessing the impact of investments on sust factors is desirable. However, feasibility and proportionality considerations should not be neglected. At this stage, the financial sector does not have a commonly accepted approach on how to capture the effects of investments on sust factors. Also, some financial players do not have the resources to adequately build up the necessary tools. IE notes that: -insurers' measurement of the impact of investments on sust would be facilitated if investees would first measure the impact of their activities on sust. -Asking insurers to capture the impact of their investments on sust is generally very difficult in terms of available information, data and measurement methods. In some cases this assessment might only be qualitative. To allow and even promote engagement strategies and stewardship activities by (re)insurers, IE highlights that the 2nd para of the new Art 275bis should be amended to: -recognise existing difficulties in terms of feasibility and proportionality -acknowledge that engagement (in direct as well as indirect investments via funds) can be very costly and that its effectiveness can be questionable depending on the portfolio types (eg equity versus bond) and the size of the investing undertaking (eg small versus large) -not contradict the principle of freedom of investment ESG preferences of PH (new recital and Art 275bis(2)) With respect to preferences of PH, the sector believes that the prudential framework is not the proper area to deal with the reflection of ESG PH preferences. On the contrary, the current wording could harm the risk-based framework and its objective of PH protection. Therefore, the sentence in Art 275bis(2) (ie "where relevant, reflect the ESG preferences of PH and	EIOPA has clarified in its analysis that the second paragraph of Article 275bis does not require undertakings to invest only in "sustainable investments", or to submit to lower risk-adjusted returns. The second paragraph has been clarified accordingly. EIOPA acknowledges the difficulty in identifying, measuring or monitoring sustainability risks today. Sustainability risks add a dimension to an undertakings' risk assessment arising from ongoing changes in environment and society, whose direct or indirect effects may not realise for some time. Such complex risks will require investment in analysis capacity, data and the development of forward-looking approaches to risk

	beneficiaries") should be deleted. IE suggests EIOPA to avoid including the new recital in the prudential framework. If the new recital would be kept, the sector proposes to amend the recital in the S2 DA as follows: "Insurance undertakings should reflect the ESG preferences of PH and beneficiaries in their investment portfolio where these preferences are relevant for the product oversight and governance arrangements according to Dir 2016/97 and DA 2017/2358." As EIOPA acknowledges in para 64-CP, reflecting ESG preferences of PHs in the investment decision processes is not always feasible. The wording of the recital proposed by the sector also ensures that the link between S2 and IDD with regard to PH preferences (see para 66 CP) is clarified and that ESG preferences are dealt with in IDD. This also avoids potential negative effects on PH protection and on the risk-based framework that can arise from introducing PH preferences in the PPP.	management, as we are unable to rely as much on historical data for this. The proportionality principle applies generally in accordance with Article 41(2) of the Solvency II Directive. EIOPA considers that the proposals are flexible enough to allow for a proportionate application. With regard to the policyholders' and beneficiaries' ESG preferences, EIOPA would like to clarify that the

		requirement seeks to ensure that the undertaking consequently implements in the risk management and investment management strategy of the undertaking, the commitments made to policyholders on ESG characteristics of the specific product. In offering ESG-specific products and not investing accordingly, insurers would be exposed to reputational or, potentially, liability risks. EIOPA has clarified its advice with regard to the requirement to reflect ESG preferences of policyholders of the target market identified according to Article 25 of Directive 2016/97. This clarification ensures that the investments correspond with the expectations of the target market and establishes the necessary link between the prudent

		person principle, the ESG-profile of the insurance product and the identification of the target market.

WWF European Policy Office	WWF is partly positive about EIOPA's proposal to clarify the prudent person principle in relation to sustainability risks. However, we consider that to make shareholder engagement (stewardship) effective, additional guidelines are necessary: our experience is that stewardship is largely ineffective to date because it does not benefit a clear operationalization and strategy, in particular when it proves ineffective after a certain period of engagement. Meaningful stewardship needs to include a process for escalation that does include divestment as an explicit last resort option. Generally, any meaningful strategy does include targets; this should therefore be the case for stewardship where the operationalization and strategy should include targets: such targets are an essential element to assess the effectiveness of the engagement.	Noted. EIOPA will consider if further guidance on investment strategies can be given. The undertaking remains free to decide on its investment strategy.

ClientEarth	We strongly agree with the proposed inclusion of Article 275bis in the Solvency II Delegated Regulation as drafted. Paragraph 1 underscores the existing obligation that insurers consider all risks (including sustainability risks) within the prudent person principle. Paragraph 2 articulates the vital concept that investment decisions have real-world impact, and so may affect the business environment in which an undertaking operates. Where insurers invest, and how they engage with their investments, may therefore impact on the insurers' own risk profile. For instance, climate change is expected to have a significant negative impact on the insurance industry. Nevertheless, insurers' investment activities in carbon intensive sectors may further fuel dangerous climate change. Insurers' investment activities may therefore be actively undermining their own long-term interests. Considering the long-term impact of investments on climate change risk is therefore a key tool in managing that risk. Divestment and/or engagement should therefore play a fundamental part in insurers' investment and risk management strategies.	Noted.

Principles for Responsible Investment (PRI)	The PRI supports the creation of the new article in the Solvency II delegated regulation. We believe that introducing this language is necessary to provide legal clarity and to draw attention to issues which are often neglected in investment practice. The PRI was an observer to the HLEG and contributed to the recommendations on reforming investor duties, governance and risk management. The HLEG analysis identified several critical dimensions to clarify: ■ Key investment activities, including investment strategy, risk management, asset allocation, governance and stewardship should integrate a broad range of value-drivers including sustainability factors. ■ There should be greater alignment with the time horizon of the end beneficiary or policy-holder. ■ Investors should proactively seek to understand the sustainability interests and preferences of their clients, members or beneficiaries. ■ Stewardship is an essential element in fulfilling investor duties. With regards to the draft technical advice, the PRI therefore recommend the following changes: ■ Paragraph 1 should explicitly reference the need to align with the time horizon of the beneficiaries or policy-holders and the term “sustainability risks” should be replaced with “sustainability risks and opportunities” to better reflect the benefits of integrating sustainability issues within the investment process. ■ The intent of paragraph 2 is to encourage stewardship in line with beneficiary preferences, and to positively influence corporate practice on sustainability. We therefore recommend that paragraph 2 state explicitly that investors should work to understand the sustainability preferences of their beneficiaries and policy-holders, and be active owners to encourage companies to progress towards sustainable economic activities. Investors should also disclose if, and how, the preferences of their beneficiaries and policy-holders have been taken into account.	With regard to the policyholders’ and beneficiaries’ ESG preferences, EIOPA would like to clarify that the requirement seeks to ensure that the undertaking consequently implements in the risk management and investment management strategy of the undertaking, the commitments made to policyholders on ESG characteristics of the specific product. In offering ESG-specific products and not investing accordingly, insurers would be exposed to reputational or, potentially, liability risks. EIOPA has clarified its advice with regard to the requirement to reflect ESG preferences of policyholders of the target market identified according to Article 25 of Directive 2016/97. This clarification ensures that the investments correspond with the

		expectations of the target market and establishes the necessary link between the prudent person principle, the ESG-profile of the insurance product and the identification of the target market.

AMICE aisbl	This proposal presents extensive challenges for a range of factors, including the absence of taxonomy in responding to this question. EIOPA's guidelines on system of governance already clarify the approach to be taken under the prudent person principle, automatically capturing sustainability risks alongside all others. Thus, we believe the proposed new article is surplus to requirements and potentially may have the antithetical effect of what is being intended here. It is already in insurers' and, by extension, policyholders' interests to integrate sustainability risks into the prudent person principle, and these are already automatically captured. Thus, there is no value in adding the proposal: "Within the prudent person principle, insurance and reinsurance undertakings shall take into account sustainability risks when assessing the security, quality, liquidity, and profitability of the portfolio as a whole." The proposed new article may also result in a significant increase in administrative burdens, in an environment in which policyholders are likely to have differing views on sustainability risk and factors – views which are likely to develop and shift over time. As regards the second proposed addition, although we agree with the underlying principle that insurance and reinsurance undertakings should take into account the potential long-term impact of investment decision on sustainability factors, we are being asked to comment in advance of other parts of the sustainability package being available for greater clarification. If this comment is to remain in the proposals for the amendments to the delegates acts, it is vital that the phrase "where relevant" should be retained.	The delay until the taxonomy is fully developed is not deemed strictly necessary, considering that the taxonomy is focused on the definition of "sustainable investments" and not on "sustainability risks". Noted. EIOPA considers the risk relevant enough to mention it explicitly, particularly having regard to the disparity in current industry practices. EIOPA acknowledges the difficulty in identifying, measuring or monitoring sustainability risks today. Sustainability risks add a dimension to an undertakings' risk assessment arising from ongoing changes in environment and society, whose direct or indirect effects may not realise for some time. Such complex risks will require investment in analysis

		capacity, data and the development of forward-looking approaches to risk management, as we are unable to rely as much on historical data for this. The proportionality principle applies generally in accordance with Article 41(2) of the Solvency II Directive. EIOPA considers that the proposals are flexible enough to allow for a proportionate application. Further defining sustainability risks as "material", "relevant" or "financially relevant" would not reflect the complex nature of sustainability risks and would be inconsistent with the treatment of other risks (e.g. reputational risks). The regulatory approach needs to allow for evolving understanding and techniques. EIOPA has clarified its advice with regard to the requirement to reflect

		ESG preferences of policyholders of the target market identified according to Article 25 of Directive 2016/97.

ICODA European Affairs	If in the IORP II directive the inclusion of sustainability risks is explicit mentioned in the directive text, which it is not in the SII L1 text, article 132 SII framework directive should first be changed accordingly. Furthermore, article 132 SII framework directive specifies that the assets be invested in accordance with the PPP "as specified in paragraphs 2, 3, and 4". These paragraphs also do not refer to sustainability risks. Therefore, it is improper to assume that the PPP in SII includes sustainability risks and to introduce the obligation via a L2 text. First L1 should be changed. Such important inclusion which is based on a clear political and strategic choice of the EU should not be introduced as an obligation via a L2 text. Therefore, in line with the request from EIOPA to describe an alternative, to suggest to the Commission corresponding and relevant changes to the L1 text would be the most logical alternative so as to create a robust and solid basis for (re)insurance undertakings to consider systematically and throughout the business system sustainability risks and for supervisors and EIOPA to be able to supervise unchallenged sustainability risks in the interest of the protection of policyholders and beneficiaries, which is the ultimate objective of supervision (art 27 SII framework directive).	As to the reference to IORPII, EIOPA favours a harmonised approach under Solvency II. COM asked EIOPA to integrate sustainability risks in the delegated regualation. The proposed revision of the Article on PPP in the delegated regulation is in line with a risk-based approach.

IRSG	We welcome the proposal to integrate sustainability into the prudent person principle PPP. It is though already implicitly included as sustainability related risks form part of the risk universe to be considered by insurers in their decision making. In current legislation, the prudent person principle requires undertakings to consider any factors that impact the security, quality, liquidity and profitability of the portfolio. Therefore, sustainability risks should be recognised within the existing prudent person principle as other risks. An explicit reference to sustainability risks in the first paragraph of the new Art. 275bis should refer to all "financially relevant risks" and should not focus on sustainability risks at the expense of other risks. Therefore, we would propose the following amendment to Art. 275bis (1): "1. Within the prudent person principle, insurance and reinsurance undertakings shall take into account "all financially relevant risks the undertaking is or could be exposed to, including" sustainability risks, when assessing the security, quality, liquidity, and profitability of the portfolio as a whole." This specification would help limit the risk of imbalance in regulatory requirements caused by highlighting specific risks in an area still under development. The risk of over-emphasizing ESG aspects and of promoting investments in certain assets would also be limited, as well as the related unintended consequences arising from it. This clarification is also in the interest of policyholders and shareholders as it would help insurers implement a more proportionate investment strategy and it would limit the burden to analyse sustainability risks that are not financially relevant for policyholders. Regarding Art. 275bis (2), the proposed recital could set an impossible task for insurers as, even should insurers be aware of the ESG preferences of their policyholders (which is not the case across all policyholders at all times) it would realistically not be practical to reflect the preferences of all policyholders. It may also result in a contradiction to Art. 133 of the Solvency II Directive (freedom of investment). In order to allow and even promote engagement strategies and stewardship activities by (re)insurers, the proposed amendment to the second paragraph of the new Art. 275bis should:	Noted. EIOPA considers the risk relevant enough to mention it explicitly, particularly having regard to the disparity in current industry practices. This is in line with COM' s request to integrate sustainability risk in Solvency II. Further defining sustainability risks as "material", "relevant" or "financially relevant" would not reflect the complex nature of sustainability risks and would be inconsistent with the treatment of other risks (e.g. reputational risks). The regulatory approach needs to allow for evolving understanding and techniques.

	• recognise the existing issues in terms of feasibility and proportionality. • be in line with existing requirements posed by the IORPII Directive, (as per paragraph 62 of the consultation paper) • acknowledge that engagement (in direct as well as indirect investments via funds) can be very costly and that its effectiveness can be questionable depending on the portfolio types (eg equity versus bond) and the size of the investing undertaking (eg small versus large). Some stakeholders support the requirement to reflect policyholders' ESG preferences as part of the prudent person principle, where relevant and known (i.e. where the underlying insurance product is designed to give policyholders a choice to select their ESG preferences). This is also consistent with the proposed new recital. On Art. 275bis (2), some stakeholders suggested that the proposed requirement to "take into account the potential long-term impact of investment decisions on sustainability factors" should be an option and not compulsory. Other stakeholders believe that, with respect to the preferences of policyholders, ESG policyholders' preferences should not be referenced in the prudential framework on the basis that this is not the proper area to deal with this issue. As a consequence, they propose that the reference to policyholders' preferences should be removed from Art. 275bis, with the proposed new recital in the Solvency II Delegated Regulation being amended as follows: "(xx) Insurance undertakings should reflect the preferences of policyholders and beneficiaries, including environmental, social and governance preferences, in their investment portfolio where these preferences are relevant for the product oversight and governance arrangements according to Directive 2016/97 and Commission Delegated Regulation 2017/2358." These changes would ensure the maintenance of the link between Solvency II and IDD with regard to policyholders' preferences and that all types of preferences, not only ESG preferences, are dealt with in the IDD. This will also avoid that changes negatively affect policyholder protection and the risk-based framework.	The proportionality principle applies generally in accordance with Article 41(2) of the Solvency II Directive. EIOPA considers that the proposals are flexible enough to allow for a proportionate application. EIOPA has clarified in its analysis that the second paragraph of Article 275bis does not require undertakings to invest only in "sustainable investments", or to submit to lower risk-adjusted returns. The second paragraph has been clarified accordingly. With regard to the policyholders' and beneficiaries' ESG preferences, EIOPA would like to clarify that the requirement seeks to ensure that the undertaking consequently implements in the risk management and

		investment management strategy of the undertaking, the commitments made to policyholders on ESG characteristics of the specific product. In offering ESG-specific products and not investing accordingly, insurers would be exposed to reputational or, potentially, liability risks. EIOPA has clarified its advice with regard to the requirement to reflect ESG preferences of policyholders of the target market identified according to Article 25 of Directive 2016/97. This clarification ensures that the investments correspond with the expectations of the target market and establishes the necessary link between the prudent person principle, the ESG-profile of the insurance product and the identification of the target market.

		As to the reference to IORPII, EIOPA favours a harmonised approach under Solvency II. COM asked EIOPA to integrate sustainability risks in the delegated regulation. The proposed revision of the Article on PPP in the delegated regulation is in line with a risk-based approach.
6. Do you agree with the proposed amendment of the article for the actuarial function?		
Investment and Life Assurance Group	Yes	Noted

SD-M GmbH	Yes	Noted
Actuarial Association of Europe (AAE)	Yes	Noted
German Insurance Association	No	Noted
Finance Watch	Yes	Noted
FERMA - Federation of European Risk Management Associations	Yes	Noted
Insurance Europe	Yes	Noted
WWF European Policy Office	Yes	Noted
ClientEarth	Yes	Noted
AMICE aisbl	No	Noted
ICODA European Affairs	No	Noted
IRSG	Yes	Noted
Please give reasons for your answer:		
The Personal Investment Management and Financial Advice Association (PIMFA)	No comment	Noted

Allianz	Consistent with the deficiencies identified by EU commission, the call for technical advice to EIOPA requests advice on amendments to the Solvency II delegated regulation "… in order to explicitly require the integration of sustainability risks … in the investment decision or advisory processes as part of duties towards policyholders, customers and beneficiaries." As such EIOPA by its own initiative expands its mandate to underwriting related sections of the delegated acts, while the EU Commission's focus is clearly on investment related sustainability considerations in alignment with the broader political initiatives on sustainable finance and investment in Europe. From a content perspective the underwriting processes in compliance with exisiting Solvency II legislation include the consideration of the impact of sustainability risk on the risk profile of the undertaking, as well as consideration of these risks in pricing and reserving. In contrast to the investment related sustainability issues, the Commission has not identified deficiencies in the considerations of sustainability risks in the underwriting process. In fact, as far as sustainability risks are relevant for certain insurance coverages, for example environmental liability insurance or natural catastrophe coverages, dedicated expertise exists contributing to pricing and reserving. There is a risk that additional explicit requirements for the actuarial function regarding the assessment of sustainability risks may be misinterpreted to signal additional reserving or additional risk capital needs, which in both cases is redundant. We acknowledge EIOPA's proposed amendments to Art. 272 SII-DR (actuarial function) to require the actuarial opinion on the underwriting policy to include sustainability risks. The proposed additional opinion should be confined to an assessment of whether the underwriting policy includes an appropriate consideration of sustainability impacts as part of the underwriting decision.	EIOPA considers that since sustainability risks could affect both the assets and the liabilities of insurers, amendments to the Solvency II Delegated Regulation should not be limited to the integration of sustainability risks in the investments decisions. No additional reserving or additional capital requirement is prescribed.
Investment and Life Assurance Group	The amendment is consistent with the other proposed changes.	Noted

SD-M GmbH	Yes, but one should add the word "RELEVANT": 6. Regarding the underwriting policy, the opinion to be expressed by the actuarial function in accordance with Article 48(1)(g) of Directive 2009/138/EC shall at least include conclusions regarding the following considerations: (b)the effect of inflation, legal risk, RELEVANT sustainability risks, change in the composition of the undertaking's portfolio, and of systems which adjust the premiums policy-holders pay upwards or downwards depending on their claims history (bonus-malus systems) or similar systems, implemented in specific homogeneous risk groups;	EIOPA consider that the addition is not necessary. It has been clarified that "sustainability risks" should be understood as risks that could affect the insurance and reinsurance undertakings' risk profile, on the investments and liabilities side, due to ESG factors.
European Funds and Asset Management Association (EFAMA)	No comment	Noted
Eumedion	This question falls outside the scope of the activities of Eumedion.	Noted

Actuarial Association of Europe (AAE)	The Actuarial Function (AF) needs to have a holistic view of both current and emerging risks, which are both requirements that already exist in the legislation. If sustainability needs to be separately mentioned, then certain aspects might need to be covered also: • The ALM aspect on sustainability where the AF can provide good input, e.g. if the actuarial analysis indicates that the environment is becoming uninsurable in the long run, this should be fed into the strategical investment analysis (e.g. can one invest into an undertaking that would not fill the sustainable UW criteria?). • With insurance risk, it might be good to talk of engagement (as in PPP), i.e. advice to policyholders on how to become more sustainable. Here the AF surely can be in a position to provide good insight for that work. • The impact of sustainability risks on the actuarial function may vary between market lines, e.g.: o They would be typically stronger for non-life entities since climate change might impact materially underwriting and reinsurance (via increased natural events risks for example) o Regarding savings insurance, ESG risks are more related to the asset side and thus outside of the actuarial function perimeter • The proposed modification might need to specify that the actuarial function should assess the impact of sustainability risks “where relevant to the insurers’ activities”. • The regulation should state unequivocally the inclusion of non-policy sustainability risks in the technical provisions due to any source, e.g. arising from reinsurance policy or transfers via capital markets. • Adding sustainability risks might nevertheless cause some difficulties as long as there is no clear view on the kind of risk covered by the sustainability risk. While climate change is already broadly discussed, social and governmental risks remain vague. To consider these e.g. in underwriting policy assigns a task to the actuarial function that might cause a challenge to the function holder.	EIOPA acknowledges the difficulty in identifying, measuring or monitoring sustainability risks today. Nevertheless, EIOPA consider that for the proper integration of sustainability risks in the underwriting policy the relevant role of the actuarial function should be explicitly recognised. EIOPA welcomes the considerations on specific aspects to be taken in to account in the actuarial analysis. Nevertheless, a high level approach is followed in order to allow for sufficient flexibility. The suggestion to specify that the actuarial function should assess the impact of sustainability risks “where relevant to the insurers” activities is not been incorporated since it is not deemed necessary. It has been clarified that “sustainability risks” should be understood as risks that could affect the insurance and reinsurance undertakings’ risk profile, on the investments and

		liabilities side, due to ESG factors. The revised Article 272 of the Solvency II Delegated Regulation should be read together with the Article 48 of the Solvency II Directive, which generally defines the responsibilities of the actuarial function.

German Insurance Association	From a content perspective the underwriting processes in compliance with existing Solvency II legislation include the consideration of the impact of sustainability risk on the risk profile of the undertaking, as well as consideration of these risks in pricing and reserving. In contrast to the investment related sustainability issues, the Commission has not identified deficiencies in the considerations of sustainability risks in the underwriting process. In fact, as far as sustainability risks are relevant for certain insurance coverages, for example environmental liability insurance or natural catastrophe coverages, dedicated expertise exists contributing to pricing and reserving. There is a risk that additional explicit requirements for the actuarial function regarding the assessment of sustainability risks may be misinterpreted to signal additional reserving or additional risk capital needs, which in both cases is redundant. So we don't see any reason to include the liability side. As the models to calculate the best estimate are depending on long time data, undertakings are able to deal with changes and trends if there are any. This may lead to changes in prices, products or contracts if necessary, which is easy to do as contracts in non-life last mostly one year. Art. 262 (1) (a) (iii) As the actuarial function has to consider the whole underwriting policy we don't see the need to extend the duties. In case there are any management rules concerning sustainability one can assume that these surely will be implemented. In so far we believe it to be sufficient to refer to the management.	EIOPA consider that since sustainability risks could affect both the assets and the liabilities of insurers, amendments to the Solvency II Delegated Regulation should not be limited to the integration of sustainability risks in the investments decision. No additional reserving or additional capital requirement is prescribed.

Finance Watch	We agree, however given that in case of climate change the standard statistical models might not be always appropriate so we believe that complementary methodologies should be considered, such as scenarios analysis based on climate scenarios (to add reference and to discuss).	A reference to climate change has been included in the proposals regarding ORSA.
FERMA - Federation of European Risk Management Associations	Yes but with the need for a careful assessment of impacts on price and product diversity As recalled in the consultation paper, Solvency II does not regulate the pricing of insurance contracts (point 68). However, if the opinion of the actuarial function on the overall underwriting policy includes sustainability risks affecting the policyholders and their claims, the materiality of ESG elements to be used in an actuarial analysis will be a crucial element for the credibility of the opinion.	Noted. A explicit reference to materiality is not deemed necessary, as for other risks.

Insurance Europe	Yes, Insurance Europe agrees with the inclusion of sustainability risks in the list of other risks such as inflation, legal risk, etc. In doing so sustainability risks do not prevail on other risks and vice versa. The tasks of the key functions in relation to ESG investment risks should be the same as those regarding any other risk. Insurance Europe highlights that risks that are relevant to the risk return profile, including sustainability risks, need to be considered by the undertaking already under the existing regulatory provisions. The tasks of the key functions in relation to ESG investment risks should be the same as those regarding any other risk. The insurance sector notes that the models to calculate the best estimate are depending on long time data, therefore, undertakings are already able to deal with changes and trends if there are any. This may lead to changes in prices, products or contracts if necessary, which is easy to do especially with contracts with a one-year term.	Noted. EIOPA agrees that the consideration of sustainability risks in the underwriting processes is consistent with the current requirements under Solvency II. The proposed amendment is intended to reflect the necessary role of the actuarial function for the proper integration of sustainability risks in the underwriting processes.
WWF European Policy Office	We agree with EIOPA's proposed amendment on Article 272.	Noted
ClientEarth	Given the potential significance of sustainability risks, we consider it entirely sensible to include express reference to them in Article 272.	Noted

AMICE aisbl	Article 272 of the Solvency II delegated act provides clarity on the responsibilities required of the actuarial function. There are many specific aspects of the actuarial function which are not detailed in this article but are indirectly embodied in the function; there is no reason to separately specify sustainability as per the proposal, particularly since this could unnaturally elevate the consideration of sustainability risk and issues to the detriment of a balanced approach in the organisation. However, should sustainability risks be specified in this context, it must be clarified that they are not deemed to be in some way more important in their own right than other risks in the organisation.	EIOPA agrees that there are many specific aspects of the actuarial function which are not detailed in Article 272 of the Solvency II Delegated Regulation. The proposed amendment is intended to reflect the necessary role of the actuarial function for the proper integration of sustainability risks in the underwriting processes.

ICODA European Affairs	In the case of legal risk, art 101 SII framework directive explicitly states this is part of operational risk. Such is not yet the case for sustainability risks. As long as sustainability risks are not defined in the L1 text as being part of the different risk categories (one hypothesis 1) or being different from emerging risks (hypothesis 2) the opinion to be expressed by the actuarial function on the overall underwriting policy is expecting too much when the need to consider sustainability risks is not systematically included in the different requirements of SII framework. Such important inclusion which is based on a clear political and strategic choice of the EU should not be introduced as an obligation via a L2 text. Therefore, in line with the request from EIOPA to describe an alternative, to suggest to the Commission corresponding and relevant changes to the L1 text would be the most logical alternative so as to create a robust and solid basis for (re)insurance undertakings to consider systematically and throughout the business system sustainability risks and for supervisors and EIOPA to be able to supervise unchallenged sustainability risks in the interest of the protection of policyholders and beneficiaries, which is the ultimate objective of supervision (art 27 SII framework directive).	It has been clarified that "sustainability risks" should be understood as risks that could affect the insurance and reinsurance undertakings' risk profile, on the investments and liabilities side, due to ESG factors. EIOPA acknowledges the difficulty in identifying, measuring or monitoring sustainability risks today. The proposal is flexible to allow for a proportionate application in an evolving context. EIOPA, within the scope of the Call for Advice received from the COM, proposed amendments to the Solvency II Delegated Regulation and not to the Directive. These amendments are deemed consistent with the provisions in the Directive.

IRSG	Yes, we agree with the inclusion of sustainability risks in the list of other risks such as inflation, legal risk, etc. In doing so it is important that sustainability risks are adequately addressed but do not take precedence over other risks. We note that this requirement in relation to the actuarial function is limited to the underwriting policy and does not extend to requiring additional reserves or risk capital, as is appropriate in light of the mandate for this advice.	Noted
7. Do you agree with the proposed reference to sustainability risks under the investment as well as the underwriting and reserving risk management policy?		
Anasf - Associazione nazionale consulenti finanziari		Noted.
The Personal Investment Management and Financial Advice Association (PIMFA)		Noted.
European Savings and Retail Banking Group (ESBG)		Noted.
Schroders plc	Yes	Noted.
Allianz		Noted.
Investment and Life Assurance Group	Yes	Noted.
SD-M GmbH	Yes	Noted.

European Funds and Asset Management Association (EFAMA)	Yes	Noted.
Eumedion	No	Noted.
BVI		Noted.
Actuarial Association of Europe (AAE)	Yes	Noted.
BIPAR (European Federation of Insurance Intermediaries)		Noted.
German Insurance Association	No	Noted.
Finance Watch	Yes	Noted.
FERMA - Federation of European Risk Management Associations		Noted.
Insurance Europe	No	Noted.
WWF European Policy Office	Yes	Noted.
ClientEarth	Yes	Noted.
Principles for Responsible	Yes	Noted.

Investment (PRI)		
AMICE aisbl	No	Noted.
ICODA European Affairs	No	Noted.
2° Investing Initiative		Noted.
IRSG		Noted.
Please give reasons for your answer:		
Anasf - Associazione nazionale consulenti finanziari		Noted.
The Personal Investment Management and Financial Advice Association (PIMFA)	No comment	Noted.
European Savings and Retail Banking Group (ESBG)		Noted.
Schroders plc		Noted.

Allianz	While we support the consideration of sustainability aspects as part of all business processes, the proposed references introduce an element of redundancy, since where relevant, existing Solvency II legislation requires sustainability risks to be considered in the risk management process. Where EIOPA suggests changes to the underwriting and reserving related sections of the delegated Solvency II regulation, these do not relate to areas where a deficiency had been identified by the EU Commission and are duplicating requirements already implied by the Solvency II directive and regulation. As such they emphasize a particular risk within the Solvency II regulation and care should be taken that the overall balance in considering all relevant risks is maintained in practical application. Should the Commission insist on the explicit integration of sustainability risks in the legal texts, as expressed in the request for technical advice (see section “1. Introduction” of the EU Com letter), we • acknowledge the suggested amendment to Art. 260 (1)(a)(i) SII-DR relating to underwriting and reserving • support the wording of Art. 260 (1)(c)(vi) relating to investment risk management • acknowledge the addition of Art. 260 (1a) and welcome that the proposal includes a qualification by “…, where appropriate, …”.	EIOPA agrees that the identification and assessment of sustainabilityrisks should already be under the control of the risk management function; however, EIOPA notes that practice differs among undertakings. EIOPA points out that the Commission’s ulterior rqeuies to EIOPA for an opinion on sustainability within Solvency II addresses the issue of sustainability and underwriting practices/valuation of the best estimate. Noted.

		EIOPA is of the view that the reference allows fpr sufficient flexibility for insurers to consider proportionality.
Investment and Life Assurance Group	It does not seem unreasonable to refer to sustainability risks within the investment risk policy. We would expect fund managers already to be giving regard to sustainability risk.	Noted.

SD-M GmbH	Yes, but one should always add the word "RELEVANT" sustainability risks.	EIOPA is of the view that futher defining sustainability risks as “relevant” would not reflect the complex nature of sustainability risks and would be inconsistent with the treatment of other risks (e.g. reputational risks).
European Funds and Asset Management Association (EFAMA)		Noted.
Eumedion	With respect to the proposed reference to sustainability risks under the investment policy, we refer to our answer to Q5.	Noted.
BVI		Noted.
Actuarial Association of Europe (AAE)	Different company policies need to specify an insurer’s position and its limits towards the major risks categories. In this context, the inclusion of sustainability risks appears appropriate. If sustainability risks need to be considered in the decision making, this might happen without legislation since it might already be common among insurers.	Noted.
BIPAR (European Federation of Insurance Intermediaries)		Noted.

German Insurance Association	Art. 260 (1)(a) In our view, a consideration of sustainability risks in the underwriting policy would not be appropriate. While we support the consideration of sustainability aspects as part of all business processes, the proposed references introduce an element of redundancy. Where EIOPA suggests changes to the underwriting and reserving related sections of the delegated Solvency II regulation, these do not relate to areas where a deficiency had been identified by the EU Commission and are duplicating requirements already implied by the Solvency II directive and regulation. On the liabilities side of non-life insurers, if there are effects of climate change they become clear year after year. So if there appear trends in time series of technical provisions showing claims expectations to rise, insurers normally react by means of premium adjustments or changing reinsurance programs, which is possible due to the short term contracts. The addition that sustainability risks must be taken into account in underwriting is therefore not necessary, because it is considered in the estimation and the way of handling risks anyway. Art. 260 (1) (c) (vi) The prudent person principle requires already today that financially relevant sustainability risks relating to the investment portfolio are taken into account. While we support the consideration of sustainability aspects as part of all business processes, the proposed reference introduces an element of redundancy, since where relevant, existing Solvency II legislation already requires sustainability risks to be considered in the risk management process. We would like to point out that with the requirement in paragraph (vi) that it must be ensured that sustainability risks in the investment portfolio are properly identified, assessed and managed it is suggested that quantification is possible in a meaningful way. On the investment side one would have to look at the business models of each individual investment in the status quo as well as the business strategy / transition. And even then it is not said that this has any significance for financial risks, since questions such as the valuation of assets are more decisive in the medium term (example Solarworld). Should the Commission insist on the explicit integration of sustainability risks in the legal texts, we acknowledge the wording of Art. 260 (1)(c)(vi) relating to investment risk management.	EIOPA agrees that the identification and assessment of sustainabilityrisks should already be under the control of the risk management function; however, EIOPA notes that practice differs among undertakings. EIOPA points out that the Commission's ulterior rqeuies to EIOPA for an opinion on sustainability within Solvency II addresses the issue of sustainability and underwriting practices/valuation of the best estimate.

		Noted.

Finance Watch	Finance Watch is supportive of the proposed reference to sustainability risks under the investment as well as the underwriting and reserving risk management policy. However, we believe that the requirements to integrate sustainability risks and notably climate related risks should be further detailed in the delegated act (or EIOPA guidance). For example, given that the analysis of climate related financial risks requires the use of scenario analysis, EIOPA should list the scenarios on the basis of which the materiality of climate related risk shall be assessed against. For example, it would be important to specify whether the insurance companies shall base their analysis on 1.5, 2 degree or 2< degree scenarios, given that the choice of the scenario strictly impacts the assessment of the materiality of climate related risk. Moreover, EIOPA should provide guidance on how the probability of each scenario shall be assessed when analysing the materiality of the climate related risks and what is the time frame that shall be taken into account. Currently, there is an imperfect information on investors' portfolios exposure to climate related risks and as documented in the latest TCFD status report, the available information disclosed is marginal and not decision-useful. So, with regard to the investment portfolios EIOPA should specify what type of indicators shall be used to describe the level of exposure of portfolios to physical and/or transition risk. It is important to have concise and comparable indicators.	Noted. EIOPA acknowledges that further guidance on the identification and measurement of sustainability risks may be needed. More detailed disclosure could help in identifying best practices.
FERMA - Federation of European Risk Management Associations		Noted.

Insurance Europe	Regarding changes to Art 260 (1)(a)(i) Insurance Europe recognises that, on the liability side, inadequate pricing and provisioning assumptions can be the result of an inadequate assessment of a wide range of risks – including sustainability risks – due to internal or external factors. To clarify this, Insurance Europe suggests the following addition to the amendment: "(…) due to internal or external factors, including sustainability risks where appropriate". The need for this specification is even more relevant for the liabilities of non-life insurers, with the effects of climate change possibly becoming more evident over time. Therefore, if time-series trends in the technical provisions show an increase in the claims expectations, insurers will normally react by means of premium adjustments – possible because of the short-term nature of insurance contracts - or by means of adjusting their reinsurance programs. Regarding Art 260, new paragraph 1(c)(vi) Given the inclusion of sustainability risks in the prudent person principle (Article 275bis (1)), Insurance Europe deems this new paragraph redundant. Paragraph 1(c)(i) already requires the investment risk management policy to include "actions to be taken by the insurance or reinsurance undertaking to ensure that the undertaking's investments comply with the prudent person principle". Therefore, sustainability risks are already considered. If EIOPA would decide to include this paragraph, Insurance Europe highlights that the responsibility of assessing sustainability risks should fall first with the investee who should identify, manage and assess its own exposure to sustainability risks (see answer to question 5 in relation to Art. 275bis (2)). For coherence, Insurance Europe suggests that the insurance undertaking should identify, assess and manage sustainability risk only when these risks can have material financial impacts on the insurance undertaking.	Noted. The prudent person principle requires the undertaking (investor) to assess the risks of the portfolio. Further defining sustainability risks as having material financial impacts on the undertaking would be inconsistent with the treatment of other risks.
WWF European Policy Office	We agree with the EIOPA's propose reference to sustainability risks under the investment and underwriting policies (Articles 260).	Noted.

ClientEarth	Sustainability factors such as climate change pose clear risks for insurers' underwriting and reserving practices.	Noted.
Principles for Responsible Investment (PRI)		Noted.
AMICE aisbl	We reiterate our position that these risks are already automatically taken into account as required by Solvency II, in this case within the investment policy alongside the underwriting and reserving risk management policy. Such risks must be considered and managed at company level in an integrated and consistent manner.	EIOPA agrees that the identification and assessment of sustainabilityrisks should already be under the control of the risk management function; however, EIOPA notes that practice differs among undertakings.

ICODA European Affairs	Although EIOPA's assessment is understandable, such important inclusion which is based on a clear political and strategic choice of the EU should not be introduced as an obligation via a L2 text. It is after all in the interest of good governance that first the L1 text is changed and thereafter the L2 text, especially when it concerns such a novel and potentially far reaching impacting issue. Therefore, in line with the request from EIOPA to describe an alternative, to suggest to the Commission corresponding and relevant changes to the L1 text would be the most logical alternative so as to create a robust and solid basis for (re)insurance undertakings to consider systematically and throughout the business system sustainability risks and for supervisors and EIOPA to be able to supervise unchallenged sustainability risks in the interest of the protection of policyholders and beneficiaries, which is the ultimate objective of supervision (art 27 SII framework directive).	Noted.
2° Investing Initiative		Noted.

IRSG	Regarding changes to Art 260 (1)(a)(i) We suggest that sustainability risk is already a factor to be considered and does not need to be separately identified. If it is to be separately identified, we suggest the following addition to the amendment, reflecting the fact that sustainability risks will not always be a factor in these considerations: “(…) due to internal or external factors, including sustainability risks where appropriate”. Regarding Art 260, new paragraph 1(c)(vi) Given the inclusion of sustainability risks in the prudent person principle (Article 275bis (1)), we believe that this new paragraph is redundant. Paragraph 1(c)(i) already requires the investment risk management policy to include “actions to be taken by the insurance or reinsurance undertaking to ensure that the undertaking's investments comply with the prudent person principle”. Therefore, sustainability risks are already considered. In case EIOPA decides to include paragraph (vi), it should be clear that this responsibility should fall first with the investee who has to identify, manage and assess their own exposure to sustainability risks. In addition, the insurance undertaking should identify, assess and manage sustainability risk only when these risks can have material financial impacts on the insurance undertaking.	EIOPA agrees that the identification and assessment of sustainabilityrisks should already be under the control of the risk management function; however, EIOPA notes that practice differs among undertakings. The prudent person principle requires the undertaking (investor) to assess the risks of the portfolio. Further definining sustainability risks as having material financial impacts on the undertaking would be inconsistent with the treatment of other risks.
8. Do you agree that other risk management policies may include reference to sustainability risks?		
Schroders plc	Yes	Noted
Investment and Life	Yes	Noted

Assurance Group		
SD-M GmbH	Yes	Noted
European Funds and Asset Management Association (EFAMA)	Yes	Noted
Actuarial Association of Europe (AAE)	Yes	Noted
German Insurance Association	No	Noted
Finance Watch	Yes	Noted
Insurance Europe	Yes	Noted
WWF European Policy Office	Yes	Noted
ClientEarth	Yes	Noted
AMICE aisbl	No	Noted
ICODA European Affairs	No	Noted
IRSG	Yes	Noted
Please give reasons for your answer:		
The Personal Investment Management and Financial Advice	No comment	Noted

Association (PIMFA)		
Allianz	We acknowledge the addition of Art. 260 (1a). While the proposal includes a qualification by "…, where appropriate, …", no deficiency had been identified by the EU Commission in areas other than investment management. As such it is important that in day-to-day risk management practice and supervisory review the overall balance of risk consideration is maintained in view of the proposed addition.	Noted
Investment and Life Assurance Group	It may be appropriate to include reference to sustainability risks in other, but not necessarily all, risk management policies.	Agreed. "where appropriate" is included in the proposed amendment.
SD-M GmbH	Yes, but one should always add the word "RELEVANT" sustainability risks.	The suggested specification is not deemed necessary. Similar specification is not used in the Solvency II Delegated Regulation when referring to other types of risks.
Eumedion	This question falls outside the scope of the activities of Eumedion.	Noted
Actuarial Association of Europe (AAE)	Yes the AAE agrees, for instance reinsurance and risk mitigation and operational risks. The same argument as in Q7 exists on what is needed in the legislation and what might happen naturally.	Noted

German Insurance Association	Regarding Art. 260, new paragraph 1.a we welcome the inclusion of "where appropriate", as this amendment allows for considering sustainability without putting too much focus on this specific risk at the expense of other risks. Provided, sustainability risks are financially relevant and material, we consider it to be acceptable if references to sustainability risks in risk management policies are made. However, we do not see a necessity to include sustainability risks into the risk governance / written policies as no deficiency had been identified by the EU-Commission in any other area but investment management. Therefore, if references to sustainability risks are made in risk management policies, it is important to strike the right balance of risk consideration in risk management practice and supervisory review.	EIOPA consider that the integration of sustainability risks would need to be reflected in the undertakings' risk management policies.
Finance Watch	As outlined in paragraphs 76, 77, 70 and 80 a coherent and comprehensive approach is needed to address sustainability risks.	Noted
Insurance Europe	Yes, provided sustainability risks are financially relevant and material. Therefore, Insurance Europe welcomes the inclusion of "where appropriate" in Article 260, new paragraph 1.a. This allows to consider sustainability risks without putting excessive focus on it at the expense of other risks.	Noted
WWF European Policy Office	We agree that other risk management policies may include reference to sustainability risks. Given the Commission's Action Plan on sustainable finance and its objective to mainstream sustainable finance, it is unavoidable that other risk management policies will have to become more explicit on sustainability risks.	Noted

ClientEarth	In our view, it is necessary for all risk management to include reference to sustainability risks where appropriate. While sustainability risks in connection with underwriting and investment are most widely discussed, they may manifest within all areas of the risk-management system. For instance, climate change risks may be particularly severe for reinsurers. Nevertheless, this also increases the counterparty / reinsurance risk for insurers down the chain. Likewise, changes in climate may expose operational elements such as call centres to physical risks such as flooding.	Noted
AMICE aisbl	Such policies are the responsibility of the organisation, which is required to take sustainability risk into account when developing them. We would like to reiterate that any potential new legislative initiative in this area, especially in the absence of a definitive taxonomy, should be principles-based, with decisions on the kind of approach to be taken to include reference to sustainability risks to be the remit of the regulated entities.	EIOPA considers that the proposal is flexible enough. "where appropriate" is included in the proposed amendment to allow for different approaches.

ICODA European Affairs	Although EIOPA's assessment is understandable, such important inclusion which is based on a clear political and strategic choice should not be introduced as an obligation via a L2 text. It is after all in the interest of good governance that first the L1 text is changed and thereafter the L2 text, especially when it concerns such a novel and potentially far reaching impacting issue. Therefore, in line with the request from EIOPA to describe an alternative, to suggest to the Commission corresponding and relevant changes to the L1 text would be the most logical alternative so as to create a robust and solid basis for (re)insurance undertakings to consider systematically and throughout the business system sustainability risks and for supervisors and EIOPA to be able to supervise unchallenged sustainability risks in the interest of the protection of policyholders and beneficiaries, which is the ultimate objective of supervision (art 27 SII framework directive).	EIOPA, within the scope of the Call for Advice received from the COM, proposed amendments to the Solvency II Delegated Regulation and not to the Directive. These amendments are deemed consistent with the provisions in the Directive.
IRSG	Yes, provided sustainability risks are financially relevant and material. The inclusion of "where appropriate" is welcome as this amendment allows for considering sustainability without putting too much focus on this specific risk at the expense of other risks. There is a danger that this change as drafted could lead to a change other than in the area of investment management policies; such other areas are not covered by EIOPA's mandate.	EIOPA consider that the integration of sustainability risks would need to be reflected in the undertakings' risk management policies, at least in the investments and underwriting policies.
9. Do you agree with the proposed requirement to include consideration of the effect of sustainability risks in the overall solvency needs assessment of the undertakings' ORSA?		
Schroders plc	Yes	Noted
Investment and Life	Yes	Noted

Assurance Group		
SD-M GmbH	Yes	Noted
European Funds and Asset Management Association (EFAMA)	Yes	Noted
Actuarial Association of Europe (AAE)	Yes	Noted
German Insurance Association	No	Noted
Finance Watch	Yes	Noted
Insurance Europe	No	Noted
WWF European Policy Office	Yes	Noted
ClientEarth	Yes	Noted
Principles for Responsible Investment (PRI)	Yes	Noted
AMICE aisbl	No	Noted
ICODA European Affairs	No	Noted
IRSG	Yes	Noted
Please give reasons for your answer:		
The Personal Investment	No comment	Noted

Management and Financial Advice Association (PIMFA)		
Allianz	Art. 45 (2) SII-Directive regarding ORSA requires undertakings to have in place processes that "… enable it to properly identify and assess the risks it faces in the short and long term and to which it is or could be exposed". We think that EIOPA's proposal to include sustainability risk, including climate change, as a factor to consider within the ORSA is consistent with the long-term nature of such risks.	Noted
Investment and Life Assurance Group	Although we agree that sustainability risks should be considered as part of the ORSA, we are unclear why it is proposed to highlight climate change.	The reference to climate change is intended to add certainty for undertakings and supervisors on the expected focus of the assessment, taking into account also the current availability of scenarios for climate change risks
SD-M GmbH	Yes, but one should always add the word "RELEVANT" sustainability risks.	The reference is not deemed necessary. The overall solvency needs assessment should take into account the specific risk profile of the undertaking.
Eumedion	This question falls outside the scope of the activities of Eumedion.	Noted

Actuarial Association of Europe (AAE)	The way sustainability related matters might change the business might be difficult to quantify or even assess qualitatively, as there is a clear lack of awareness of what sustainability actually means Since the ORSA analysis must take into consideration all major risk areas, whether or not they are included in the standard formula, sustainability risks should be assessed one way or the other. Currently, there seem to be very few reliable approaches to quantify these even though there is a lot of development already (e.g. UN PRI). In this context, entities should be allowed at first to either perform only qualitative analyses of those risks or very simplified qualitative ones. (See Paragraph 2 of General Comments.) Entities should be careful not to double-count a sustainability risk that could have already been assessed through the market risk module. Any quantification will also need models that include sustainability related risks and the model needs also parametrization and expert judgment so it might be a difficult task to integrate into the overall solvency needs assessment.	Noted. It has been clarified that a qualitative assessment might be sufficient in view of the proportionality principle for insurers not significantly exposed to sustainability risks.

German Insurance Association	The link between sustainability risks and the ORSA is critical in our view. We agree that the "effects of sustainability risks" on the risk profile should be taken only in account if these effects are financially relevant and material for the undertaking. However, a compulsory analysis of sustainability risks would contradict the basic idea of a company-specific strategy and risk assessment. Therefore, it should be made clear that a measurement and quantification of the effects of sustainability risks should only be necessary if these effects are financially relevant and material for the undertaking's ORSA. If the effects are financially relevant and material, then it should be sufficient to evaluate the material sustainability risks in a qualitative way.	EIOPA considers that the proportionality principle applies, in accordance with Article 45 of the Solvency II Directive. Nevertheless, it has been clarified that a qualitative assessment might be sufficient in view of the proportionality principle for insurers not significantly exposed to sustainability risks.

Finance Watch	We agree to include the effect of sustainability risks in the overall solvency needs assessment. As described in the response 7, following elements are critical in the assessment of material risks (referred to on page 4 of https://eiopa.europa.eu/guidelinessii/eiopa_guidelines_on_orsa_en.pdf): 1) The choice of the climate scenario 2) The time frame of the analysis 3) The (assumed/estimated) probability of occurring of each climate scenario. It is therefore important the general requirement to consider sustainability risk in the overall solvency needs is further detailed, in order to be sure that a consistent assessment framework is applied to all insurance and re-insurance undertakings. Moreover, as a general requirement, the insurance undertakings should be requested to disclose their overall exposure to: 1) Carbon intensive sectors, which are particularly sensitive to transition risks and; 2) Sectors and geographical areas which are particularly sensitive to physical risks (notably in >2-degree scenario).	Noted.

Insurance Europe	The insurance industry believes that the consideration of the effect of sustainability risks should be included in the overall solvency needs assessment of the undertakings (ORSA) as long as these risks are financially relevant and material for the undertaking. This is because the sector believes that sustainability risks should get the same treatment as other risk types The link between sustainability risks and the ORSA is critical, but the analysis of sustainability risks is dependent on the company-specific strategy and risk assessment. Therefore, the measurement and quantification of the effects of sustainability risks is necessary only when these effects are financially material for the undertaking's ORSA.	The consideration of sustainability risks within the ORSA is consistent with the integration of sustainability risks in the undertakings' risk management processes and the requirement for undertakings to identify and assess the risks they face in the short and long term and to which they are or could be exposed for the purpose of their overall solvency needs assessment. EIOPA considers that the proportionality principle applies, in accordance with Article 45 of the Solvency II Directive. Nevertheless, it has been clarified that a qualitative assessment might be sufficient in view of the proportionality principle for insurers not significantly exposed to sustainability risks.
WWF European Policy Office	We agree with the EIOPA's proposed requirement to include consideration of the effect of sustainability risks in the overall solvency needs (ORSA, Article 262).	Noted

ClientEarth	Sustainability risks such as climate change may pose significant financial risks to insurers. Accordingly, they should already form part of the overall solvency needs assessment. We consider that the proposed amendment is a welcome clarification of this requirement, and will promote better integration of sustainability risks into insurers' core functions. We also consider that it would assist greater regulatory oversight of these risks. We particularly support the express reference to climate change, given the potential gravity of the associated risks.	Noted
Principles for Responsible Investment (PRI)	Yes. As above, we consider an explicit reference to sustainability to be a necessary and useful addition. The PRI has developed tools and guidance to support investors to respond to risks such as climate change. Of particular relevance is PACTA, an online tool for analysing exposure to climate transition risk in energy intensive sectors, developed with 2 Degrees Investing Initiative. We would welcome the opportunity to share more detail on this and other initiatives.	Noted

AMICE aisbl	The ORSA is prepared by the regulated entity to reflect its risk and solvency profile, decision-making and analysis. It is designed to reflect each organisation as a separate entity, and therefore the effect of sustainability risks will be incorporated into the ORSA where appropriate. This requirement is both elevating the risk profile of sustainability and dictating the ORSA improperly. This is a proposal which highlights the process issues: the ORSA is aligned with Pillar 1 issues and therefore those need to be addressed in the context of Pillar 1 before it is clear whether these proposals are appropriate and sufficient. Finalising the publishing of the taxonomy and other elements of the sustainability agenda would assist in being able to prepare and quantify sustainability for the ORSA. Since the assessment of overall solvency needs (ORSA) represents the undertaking's own view of its risk profile, and the capital and other means needed to address all the risks to which the company is or could be exposed, the undertaking should decide for itself how to perform this assessment given the nature, scale and complexity of the risks inherent in its business. On this point, we do not agree with the wording proposed by EIOPA under Article 262, but instead of referring to "the effects of sustainability risks, including climate change", we would welcome a reference to the risks due, more generally speaking, to the change of the external environment for social, political, technological and environmental factors.	The consideration of sustainability risks within the ORSA is consistent with the integration of sustainability risks in the undertakings' risk management processes and the requirement for undertakings to identify and assess the risks they face in the short and long term and to which they are or could be exposed for the purpose of their overall solvency needs assessment. The taxonomy will provide a list of economic activities that are considered environmentally sustainable for investment purposes EIOPA considers that the proportionality principle applies, in accordance with Article 45 of the Solvency II Directive. Nevertheless, it has been clarified that a qualitative assessment might be sufficient in view of the proportionality principle for insurers not

		significantly exposed to sustainability risks.

ICODA European Affairs	Although EIOPA's assessment is understandable, such important inclusion which is based on a clear political and strategic choice of the EU should not be introduced as an obligation via a L2 text. It is after all in the interest of good governance that first the L1 text is changed and thereafter the L2 text, especially when it concerns such a novel and potentially far reaching impacting issue. Therefore, in line with the request from EIOPA to describe an alternative, to suggest to the Commission corresponding and relevant changes to the L1 text would be the most logical alternative so as to create a robust and solid basis for (re)insurance undertakings to consider systematically and throughout the business system sustainability risks and for supervisors and EIOPA to be able to supervise unchallenged sustainability risks in the interest of the protection of policyholders and beneficiaries, which is the ultimate objective of supervision (art 27 SII framework directive).	EIOPA, within the scope of the Call for Advice received from the COM, proposed amendments to the Solvency II Delegated Regulation and not to the Directive. These amendments are deemed consistent with the provisions in the Directive
IRSG	Yes, the link between sustainability risks and the ORSA is critical and the "effects of sustainability risks" on the risk profile should be taken into account. It is key that sustainability risks get the same treatment as operational risks; therefore we propose the following amendment (including the removal of point iii from the proposal): “risks the undertaking is or could be exposed to, taking into account potential future changes to its risk profile, including operational risks and sustainability risks where appropriate, due to: i. The undertaking’s business strategy ii. The economic and financial environment”	Noted. The proposed rewording does not include an explicit reference to climate change, which EIOPA (and several stakeholders) consider important to add certainty for undertakings and supervisors on the expected focus of the assessment, taking into account also the current availability of scenarios for climate change risks.

		The reference "where appropriate" is not deemed necessary since the proportionality principle applies, in accordance with Article 45 of the Solvency II Directive.
10. Do you agree that conflicts of interest may also arise with regard to the ESG objectives of customers of insurance undertakings and insurance intermediaries.		
Anasf - Associazione nazionale consulenti finanziari	Yes	
The Personal Investment Management and Financial Advice Association (PIMFA)	Yes	
European Savings and Retail Banking Group (ESBG)	Yes	
Schroders plc		

Allianz		
Investment and Life Assurance Group	Yes	
SD-M GmbH	No	
European Funds and Asset Management Association (EFAMA)		
Eumedion		
BVI		
Actuarial Association of Europe (AAE)		
BIPAR (European Federation of Insurance Intermediaries)	Yes	
German Insurance Association	Yes	
Finance Watch	Yes	
FERMA - Federation of European Risk Management Associations		
Insurance Europe	Yes	

WWF European Policy Office	Yes	
ClientEarth		
Principles for Responsible Investment (PRI)		
AMICE aisbl	No	
ICODA European Affairs		
2° Investing Initiative		
IRSG		
Please give reasons for your answer:		
Anasf - Associazione nazionale consulenti finanziari	We believe that provisions on conflicts of interest should be as much far-reaching as possible, thereby including all the possible sources of conflicts. At the same time we agree with the proposed high-level principle-based approach in order to avoid excessive regulatory burdens. More in general, the process thereby used shall be effective for the company and comprehensible also by the investor.	Noted.
The Personal Investment Management and Financial Advice Association (PIMFA)	We agree that conflicts of interest may arise when intermediaries provide advice on products with ESG objectives, in the same way as they may arise for products without ESG objectives.	Noted.

European Savings and Retail Banking Group (ESBG)	We believe that the IDD already establishes appropriate criteria for determining different types of conflicts of interest. It is our understanding that any potential conflicts of interest that may arise with regard to ESG objectives, as understood in the EIOPA consultation paper, would already be regulated under those rules. We support EIOPA's position on integrating sustainability risks within the IDD requirements through a high-level principle-based approach. For this reason, we are in favour of introducing a reference to ESG considerations in a Recital of the Delegated Regulation which will provide guidance on the application of the conflict of interest rules – as proposed EIOPA in policy option 7.1. From a conflict of interest perspective, we also note that insurance products have to comply with relatively strict criteria. ESG consideration should not come at the detriment of those. As outlined by EIOPA, based on the IDD Regulation and the Delegated Acts, entities are not required to offer ESG products. Thus, in general, there is no obligation to add ESG considerations in the conflict of interest policy but only where relevant. Introducing "where relevant" in the proposed recital could be a possible option. This is important with regard to the distinction between agents and brokers. An agent of a particular insurance company is indeed bound to offer the products of a particular insurance company, which may or may not offer insurance products taking into account ESG criteria. ESBG would like to underline that a direct portfolio link with regard to ESG is not necessarily compatible with several insurance products and could lead to unintended conflicts of interests. Some insurance products (e.g., life insurances) are directly linked to specific funds, with a specific strategy. However, in many cases, the insurer manages an overall investment portfolio (on the asset side), meaning that a direct link with an insurance product with regard to ESG is not necessarily possible. In those cases, statements from the insurer or fund manager on ESG should be sufficient.	Noted. Noted. EIOPA takes note of the concerns around the terminology "where relevant" and proposes the introduction of a new Recital to provide further clarity. EIOPA is of the view that conflict of interest may arise in the context of pooled investments.
Schroders plc	see reply to question 11.	

Allianz	We agree, that conflicts of interest may also arise with regard to the ESG objectives of customers of insurers and insurance intermediaries e.g with regard to potential ESG preferences. As a matter of principle any potential conflict of interest which may arise with regard to ESG objectives should already be covered by the existing framework of the IDD and handled as any other conflict of interest under the IDD. However, especially in the first years after implementation it might be the case that there will not be sufficient products available in the insurance sector that provide a perfect fit both at the level of desired risk coverage (in line with existing criteria for IBIPs) as well as in view of desired respect to ESG criteria. Insurance and investment products firstly aim to cover certain risks of the customer (e.g. longevity), on which the mandatory advice process should focus. There should be a clarification made in the IDD delegated acts that only within the identified suitability (Art. 9 EU 2017/2359) ESG criteria for underlying investments can come into consideration. We therefore welcome the proposed amendments of Art. 1 and Art. 9 of the Delegated Regulation (EU) 2017/2359 from the EU COM published on January 4 in 2019 especially with regard to the recitals of the proposal which describes a clear and unambiguous order in advising clients through intermediaries in their suitability assessment questions (No 6). Nonetheless, in this context, we also strongly support the emphasis on the priority of the customer's investment objectives against potential ESG preferences. This preference should be reflected in both the recitals and the regulatory content. We strongly advise that this clarification on the subordinated quality of ESG criteria for the selection of target investments will be instrumental to support managing potential conflict of interest in this field. From the perspective of distribution law (IDD), we endorse in principle a taxonomy which is unambiguous and uninterpretable in order to avoid liability risks for the product manufacturers and distributors. Furthermore, a regulatory framework should not allow divergent interpretations at national level. In this context, we consider the current design of the ESG taxonomy in general not being fit for purpose (see the upcoming AZ reply to the EU Com TEG consultation on taxonomy for further details).	Noted. Noted. EIOPA is of the view that conflicts between the customer's investment and EG objectives should be dealt with in the suitability assessment. The rules on conflict of interest deal with conflicts arising between the customer and another party. Noted.

	To the extent the new Taxonomy will be principles based and grant room for interpretation, this flexibility must be adequately reflected in the overall IDD concept: in view of the POG, COI and liability regime for advice. Such adaptation are currently not made in the draft Delegated Regulation (EU) 2017/2359 from the EU COM published on January 4 in 2019. It must be avoided that future product development that will be based on ESG indications in line with the taxonomy might in the further value chain of marketing and distribution be punished by potentially mislead interpretation and expectations from the customer side. We are concerned that such inconsistent system will create a non-manageable liability risk for the product manufacturers and distributors, even more in view of future collective redress mechanism. This could even lead to the unintended consequences, that firms might fully refrain from establishing and distributing ESG products. We recommend that the term "where relevant" (Art. 9 lit. a) of the Delegated Regulation (EU) 2017/2359 from the EU COM published on January 4 in 2019) has to be defined in the IDD delegated regulations itself (EU 2017/2359 and 2017/2358) more prominently to avoid legal ambiguity. In parallel, one should think about whether the term “where relevant” is not too ambiguous and the term "at the request of the customer" would not be more appropriate and clear. It should be made clear that also under the amended IDD regulations, it remains an independent business decision of an insurance undertaking whether to establish products that reflect ESG objectives.	Noted. Noted.

Investment and Life Assurance Group	We agree that conflicts of interest may arise with regard to the ESG objectives of customers of insurance undertakings and insurance intermediaries. However, conflicts are not new, and intermediaries are already accustomed to identifying, preventing, managing and disclosing them.	Noted.
SD-M GmbH	The benefits of integration of relevant / material ESG indicators far outweigh the costs or conflict of interests.	Noted.
European Funds and Asset Management Association (EFAMA)	No comment	Noted.
Eumedion	This question falls outside the scope of the activities of Eumedion.	Noted.
BVI		
Actuarial Association of Europe (AAE)		

BIPAR (European Federation of Insurance Intermediaries)	The conflict of interests that may arise when intermediaries provide advice on products with ESG objectives are the same that could arise when advice is provided on products without ESG objectives. The existing rules on conflict of interests as laid down in the IDD and the level II text on IBIPS adequately cover every situation of conflicts-of-interests that may arise and they should also apply to the advice of sustainable products. BIPAR sees therefore no cases related to ESG objectives which would – a priori- require different treatment than cases where no ESG objectives exist. BIPAR sees no need for changes or introduction of additional rules in the existing rules on conflicts of interest. BIPAR endorses the high-level principle-based approach followed by EIOPA in relation to the integration of sustainability risks into the IDD provisions, particularly the conflicts of interest requirements. Considering that several Commission legislative proposals are still ongoing – proposal for a Regulation on the establishment of taxonomy, proposal for a Regulation on disclosures relating to sustainable investment and sustainability risks - too prescriptive requirements in relation to sustainability risks may result in potential regulatory inconsistencies and subsequently in legal uncertainty for both intermediaries and their customers. BIPAR welcomes the introduction of the wording “where relevant” in Article 3(1) of the IDD Delegated Regulation as proposed by EIOPA which goes towards the direction taken by the Commission in the Draft Amendments to the IDD Delegated Regulation with regard to ESG preferences in the distribution of IBIPs. This amendment introduces the obligation to take into account sustainability risks without outweighing other risks. It is considered a good means to clarify that when identifying the conflicts of interests that may damage the interests of a customer, insurance intermediaries should also take into account non-financial interests linked to ESG preferences, if any. This means that only in the case that customers have any ESG preferences and have raised them either proactively or after having been asked specific questions, insurance intermediaries will be required to take into account sustainability considerations in a way proportionate to the other interests to be taken into account.	Noted. Noted. Noted. Noted. EIOPA does not share the view that ESG preferences of customers should be considered, only, if the customers have expressed their preferences to the insurance undertaking or insurance intermediary. EIOPA is the view that insurance undertakings

	To make sure that the aforementioned principle is clear, BIPAR suggests therefore introducing the wording "if any" in addition to "where relevant" in the relevant articles of the EIOPA proposal amending the IDD Delegated Regulation, as the Commission proposes in the Draft Amendments published in January 2019. This way, sustainability risks and ESG preferences will be integrated in a consistent and harmonised manner. Recital 3(bis) of the amended IDD Delegated Regulation should read as follows: "When identifying the types of conflicts of interest whose existence may damage the interests of a customer, insurance undertakings and insurance intermediaries should include, where relevant, those that may arise in relation to sustainability considerations, if any."	and insurance intermediaries should always be required to take all appropriate steps to identify conflicts of interest that arise in the course of carrying out any distribution activities (as stated in Article 28 of the IDD), and not only if explicitly mentioned by the customer. The latter approach would limit the scope of Article 28 IDD and disadvantage the customers.
	Article 3 of the amended IDD Delegated Regulation should read as follows:	Noted.
	"For the purposes of identifying, in accordance with Article 28 of Directive (EU) 2016/97, the types of conflicts of interest that arise in the course of carrying out any insurance distribution activities related to insurance-based investment products and which entail a risk of damage to the interests of a customer, including (where relevant) the interest in attaining ESG objectives, if any, insurance intermediaries and insurance undertakings shall assess whether they, a relevant person or any person directly or indirectly linked to them by control, have an interest in the outcome of the insurance distribution activities, which meets the following criteria: …"	Noted.

German Insurance Association	As EIOPA already pointed out this is only one possible source of conflicts of interests (see page 42/43 of the draft technical advice). The delegated regulation already includes appropriate criteria for determining different types of conflicts of interest. Those criteria capture such conflicts of interest that might arise from taking into account sustainability considerations. We agree with EIOPA, that a reference only on ESG considerations could overemphasise and unbalance the legal drafting. We appreciate a high-level principle-based approach as suggested by EIOPA in Number 92. Hence we would prefer Option 7.1, introducing a reference to ESG into a new recital only. As EIOPA pointed out (page 42/43) this Recital could provide guidance on the application of the conflict of interest rules. We also would like to draw attention to the fact that neither the IDD nor the delegated acts require insurance undertakings to offer insurance products considering ESG preferences. Hence insurance undertakings and insurance intermediaries should not be expected to include ESG considerations into their conflict of interest policy in general, but only where relevant. We would suggest adjusting the proposed recital slightly by introducing a "where relevant".	Noted. However, EIOPA considers this explicit reference necessary in view of the novelty of this topic and to raise awareness around stakeholders around this subject matter. EIOPA takes note of the concerns around the terminology “where relevant” and proposes the introduction of a new Recital to provide further clarity.

Finance Watch	Remuneration is a key source of conflict of interest, both in general and in the specific case on ESG objectives. Allowing commissions to be earned for the sale of products creates a financial incentive and therefore likely bias. This means that the best interest of the customer and ESG objectives may not be properly taken into account if they do not align with the best financial incentive for the insurance distributor. Clarification on paragraph 94 would also be important to understand how EIOPA views the potential for conflicts of interest arising from the overall activities of an insurance distributor. The question that could be raised here is; if an insurance distributor claims to offer a product that meets certain ESG objectives of a customer, do they also distribute other products that do not? In the case that they do, to what extent are the effects of these other products, which may be contrary to the ESG objectives, mitigated by the products in line with these objectives? In short the question arises over the impact a product has in the context of other products distributed or provided by the same distributor or provider.	Noted. Noted.
FERMA - Federation of European Risk Management Associations		

Insurance Europe	The IDD (and delegated regulation) already establishes appropriate criteria for determining different types of potential conflicts of interest given the financial and also non-financial objectives of the customer. Any potential conflicts of interest that may arise with regard to ESG objectives will be captured by these criteria and handled in the same way as any other conflict of interest under the IDD. It is unlikely that the inclusion of sustainability factors would introduce any specific conflicts of interest that cannot be addressed within the existing IDD framework. Insurance Europe agrees with EIOPA that a reference only to ESG considerations could over-emphasise and unbalance the legal drafting. The insurance sector supports a high-level principle-based approach, as suggested by EIOPA in paragraph 92 of its draft technical advice. The insurance sector would therefore prefer policy option 7.1, introducing a reference to ESG considerations in a recital of the Delegated Regulation only. As EIOPA points out (on page 42-43), this recital could provide guidance on the application of the conflict of interest rules. The insurance sector would also like to draw attention to the fact that neither the IDD nor the delegated acts require insurance undertakings to offer insurance products with ESG considerations. Insurance undertakings and insurance intermediaries should therefore not be expected to include ESG considerations in their conflicts of interest policy in general, but only where relevant. The insurance sector would suggest adjusting the proposed recital slightly by introducing the words "where relevant". This would also be consistent with other parts of the draft technical advice. It is perhaps also worth noting that the more demand there is for products contributing to sustainable investment, the more insurance intermediaries will engage in distributing such products.	Noted. EIOPA considers this explicit reference necessary in view of the novelty of this topic and to raise awareness around stakeholders around this subject matter. EIOPA takes note of the concerns around the terminology “where relevant” and proposes the introduction of a new Recital to provide further clarity. Noted.

WWF European Policy Office	Consumer surveys reveal a huge gap between the non-financial objectives of retail clients (‘make a difference’ in the real economy with their money) and the purpose of most ESG products offered today (designed to minimize the exposure to material ESG risks). Intermediaries facing this gap are likely to frame the questions to the retail client in a way that will help them to sell existing ESG products towards their clients. In order to develop evidence-based guidance and avoid exclusive reliance on the information provided by the finance industry, we recommend the EC and the EIOPA to support independent research (e.g. consumer surveys, focus groups) on the non-financial investment objectives of pension funds beneficiaries and insurance policyholders. In addition, there may be another conflict of interest between retail clients and intermediaries. Retail clients that are very interested in the ‘real economy’ as mentioned above, care about the sustainability impact of their investments, ie the impacts on environment and society. This is totally different from the typically narrow view of financial advisers that focus only on financially material ESG risks for their portfolio. This issue is reflected in the following High-Level Expert Group’s (HLEG) priority recommendation: ‘Require investment advisers to ask about, and then respond to, retail investors’ preferences about the sustainable impact of their investments, as a routine component of financial advice.‘ It should be clarified that the retail client’s preference should still be part of the offer. In that case, the ultimate decision relies on the retail client, even if it leads to reduced financial returns.	Noted. Noted. Noted.
ClientEarth		
Principles for Responsible Investment (PRI)		

AMICE aisbl	We support EIOPA's view that "the integration of sustainability risks within the IDD requirements is better done through a high-level principle-based approach". The current applicable regime already provides for a set of criteria for establishing the existence of different types of conflicts of interest. Customers' interests can consist of financial objectives, as well as non-financial objectives, including ESG preferences that need to be considered by insurance undertakings. Therefore, there is no need to introduce new specific measures to take into account the ESG objectives in the identification of potential conflicts of interest; they must be taken into account according to the same processes as the other criteria. EIOPA rightly points out on page 42 of its draft technical advice that the reference to ESG considerations in Article 3 of the IDD Delegated Regulation could overemphasise and unbalance the legal drafting. Therefore, AMICE would favour the addition of such reference in a recital of the Delegated Regulation only. This will provide sufficient guidance to insurance undertakings without putting any additional constraints and unnecessary burden. Given that not all customers have ESG preferences, insurers should not be expected to include such considerations in their conflicts of interest policy all the time, but only where relevant. Therefore, it is important to clarify this in the proposed recital by adding the wording "where relevant". In order to properly identify and manage conflicts of interest that arise with regard to the ESG objectives of customers (where relevant), private actors should have a better understanding of what ESG objectives and factors represent. In this context, a defined taxonomy is an important resource and essential prerequisite to achieve this objective.	Noted. EIOPA considers this explicit reference necessary in view of the novelty of this topic and to raise awareness around stakeholders around this subject matter. Noted. Noted.
ICODA European Affairs		

2° Investing Initiative	40% of households' assets in Europe are invested in pension funds and insurance, representing one of the main decision-makers regarding capital allocation in Europe and pension funds' long-term liabilities are potentially more exposed to long-term risks. Thus, the HLEG recommended that "pension funds should consult their beneficiaries on their sustainability preferences and reflect those in the fund's investment strategy". EIOPA should take the same approach for IDD. Various surveys on retail clients' preferences clearly indicate that a large majority of them want their money to be used to generate environmental and social benefits. When asked about their motivation and expected outcomes, they answer that they want their influence as investors to be used to change the decisions in the real economy to deliver those outcomes. For the above-mentioned surveys please see: • MorganStanley: Sustainable Signals https://www.morganstanley.com/pub/content/dam/msdotcom/ideas/sustainable-signals/pdf/Sustainable_Signals_Whitepaper.pdf • Natixis: Mind Shift https://www.im.natixis.com/us/resources/mind-shift-getting-past-the-screens-of-responsible-investing • Bauer et al. (2018): Get real! Individuals Prefer More Sustainable Investments https://sustainable-finance.nl/upload/researches/Bauer-Ruof-Smeets-2018-Get-real.pdf • yet unpublished results of a 2° Investing Initiative survey of German retail investors: ihttps://www.dropbox.com/s/c5bcmi3j63a7n24/Results%20Survey%20German%20Retail%20Investors.pdf?dl=0). Most ESG products are not associated with 'sustainability impacts'. As noted by the HLEG Final Report (p. 10),	Noted. Please see EIOPA's policy proposals on the Prudent Person Principle which introduces a link to the ESG preferences of the target market. Noted. Noted. Noted. See comment above. Noted. See comment above.

	most ESG-related products on the market today have not been designed with the objective of influencing the decisions of players in the real economy (e.g. request investee companies to align their investment plans with climate goals). They are primarily designed to marginally integrate financial risks related to ESG factors, by reducing the exposure to risky activities and increasing the exposure to green activities (e.g. green funds, low carbon ETFs, etc.). However, these two objectives are fundamentally different, and most investment strategies developed to mitigate ESG-related risks are ineffective when it comes to triggering changes in the real economy. As a result, there is a fundamental mismatch between the current offer of ESG products on the market, and the non-financial investment objectives of retail investors, as revealed by various surveys. In other words: most existing ESG products would not pass the suitability test if the questions were correctly framed. A new generation of 'sustainable impact investment' products, including insurance undertakings, will need to be developed. The most likely conflict of interest will hence be that insurers advocate for framing the obligation in terms of 'integration of ESG factors', to be able to sell existing ESG products despite their unsuitability, and benefit from the rent created by the regulation without having to adapt their processes.	Noted. See comment above.

IRSG	The IDD and its Delegated Regulation already establish criteria for determining different types of conflicts of interest. Any potential conflicts of interest that may arise with regard to ESG objectives will be captured by these criteria and should be handled in the same way as any other conflict of interest under the IDD. It is important that there is legal certainty in relation to terms used in regulation in order to avoid liability risks. The suggested draft technical advices in the IDD Delegated Regulation 2017/2359 and 2017/2358, in particular the term "where relevant" should be defined in the IDD itself (Level 2) and not in the Delegated Acts. Ideally, the full set of criteria relevant to ESG should be adopted in the EU and national legislative processes, including testing and implementation in product development and investment processes, before they become legally binding. This process should also include sufficient financial education and understanding for all concerned, including financial advisors and intermediaries, including understanding the consequences of choices made by consumers. It will take considerable time for the real economy and target investments to qualify against a new ESG taxonomy and for product development for insurance products, including testing and training, to be complete. Some stakeholders suggest that, while such transition is taking place, the requirements should start with a voluntary testing phase for ESG advice, with provisions becoming compulsory following transition.	Noted. Noted.
11. Do you agree that conflicts of interest with the ESG objectives of customers may arise, particularly in regards to the investment strategy for the customers' assets and the shareholder rights in companies in which the customers' assets with ESG preferences are invested?		
Anasf - Associazione nazionale	Yes	

consulenti finanziari		
The Personal Investment Management and Financial Advice Association (PIMFA)	Yes	
European Savings and Retail Banking Group (ESBG)	Yes	
Schroders plc	Yes	
Allianz		
Investment and Life Assurance Group	Yes	
SD-M GmbH	No	
European Funds and Asset Management Association (EFAMA)		
Eumedion	Yes	
BVI		
Actuarial Association of Europe (AAE)	No	
BIPAR (European Federation of	Yes	

Insurance Intermediaries)		
German Insurance Association		
Finance Watch	Yes	
FERMA - Federation of European Risk Management Associations		
Insurance Europe	No	
WWF European Policy Office	Yes	
ClientEarth		
Principles for Responsible Investment (PRI)		
AMICE aisbl	No	
ICODA European Affairs		
2° Investing Initiative		
IRSG		
Please give reasons for your answer:		
Anasf - Associazione nazionale consulenti finanziari	We agree with the examples proposed and we consider that the caveat “where relevant” in Article 3(1) is necessary: ESG objectives should be considered only when they are relevant, i.e. when they are identified alongside with the characteristics, needs and objectives of the customer.	Noted.

The Personal Investment Management and Financial Advice Association (PIMFA)		
European Savings and Retail Banking Group (ESBG)	The current wording of the IDD Delegated Regulation already establishes appropriate rules regulating different types of conflicts of interests that may arise in relation to customers' objectives. Like other conflicts of interest, conflicts arising in relation to clients' ESG preferences would fall under the current provisions of the IDD Delegated Regulation.	Noted.
Schroders plc	However, the consultation paper seems to imply that different stewardship strategies can be applied when customers investing in the same company have different ESG objectives. In practice, this would be impossible to implement. To avoid conflicts, we suggest that in this context stewardship means the encouragement of sustainable long term value creation."	Noted.

Allianz	We agree, that conflicts of interest may also arise with ESG objectives of customers (and a corresponding investment strategy of the insurer for such products reflecting ESG preference) and the shareholders rights in companies in which the customers assets are invested. Such conflicts of interest may arise in the context of the profit interests of these shareholders. Conceivable are several constellations: the interests of the insurer are derived from its contractual obligation to the customer (ESG conformity and profit) while other shareholders only have profit interests. From the perspective of distribution law (IDD), we endorse in principle a taxonomy which is unambiguous and uninterpretable in order to avoid liability risks for the product manufacturers and distributors. Furthermore, a regulatory framework should not allow divergent interpretations at national level. In this context, we consider the current design of the ESG taxonomy in general not being fit for purpose (see the upcoming AZ reply to the EU Com TEG consultation on taxonomy for further details). Furthermore before making any ESG related advice mandatory, the full set of criteria must be adopted in the EU and national legislative processes including providing for good time for testing and implementation in product development and investment processes. This will realistically require 4-5 years until target investments of the real economy have qualified against the ESG criteria. This will be reflected in Asset Management and their products and can be integrated in Life insurance products up and including product development, testing, training and roll out for marketing. It must also be secured that there has been sufficient financial education and knowledge established to the average financial advisor and intermediary as well as to the average retail customer basis that allows to believe that such ESG related financial advice will be helpful and relevant. In this context, a transitional period in which ESG consulting is not mandatory but can only take place on a voluntary basis is strongly preferable. Against this background we are also concerned that the envisaged effective date of the amendments to the Delegated Regulation is much too early.	Noted. Noted. Noted. Noted. Noted.

Investment and Life Assurance Group	We agree that such conflicts of interest may arise. However, stakeholder conflicts between customers and shareholders are not new and can be managed in much the same way as they are now.	Noted.
SD-M GmbH	The benefits of integration of relevant / material ESG indicators far outweigh the costs or conflict of interests.	Noted.
European Funds and Asset Management Association (EFAMA)	No comment	
Eumedion	The revised shareholder rights directive (directive (EU) 2017/828) already requires that life-insurers describe in their engagement policy how they manage actual and potential conflicts of interests in relation to their engagement. We also refer to our answer to Q5.	Noted.
BVI		

Actuarial Association of Europe (AAE)	It is unclear what is meant by “Conflicts of interest”. “Fiduciary duty”, which would be taking best care of the interests of the asset owner, might be one place where such issues might arise as it is often reduced to the idea of looking only at the return and (financial) risk. If asset owners generally have sustainability in mind, then taking account of this should be a fiduciary duty. Therefore, it seems that taking sustainability into account should not lead to conflicts of interest. Sustainability should be taken into account when distributing products and clients should be made aware (even when they do not want to be!) to what extent what they are buying is sustainable or not. Furthermore, if one does not know the preferences of the client it should be assumed that the client favours sustainability (i.e. the default option should be on the sustainability side when the client does not explicitly say otherwise).	Noted. Conflict of interest is the terminology used in the Insurance Distribution Directive. Noted.
BIPAR (European Federation of Insurance Intermediaries)	BIPAR acknowledges that such situations of conflicts of interests may arise. However, we see no cases related to ESG objectives which would – a priori- require different treatment than cases where no ESG objectives exist. The existing rules on conflict of interests as laid down in the IDD and the level II text on IBIPS adequately cover every situation of conflicts-of-interests that may arise and they should also apply to the advice of sustainable products.	Noted.
German Insurance Association	We do not see potential conflicts of interest in this regard which would be particular to ESG.	Noted.

Finance Watch	We agree and for the purpose of article 3(1) of the IDD Delegated Regulation 2017/2359, we believe that insurance intermediaries and insurance undertaking shall proactively assess the customer ESG objectives. The current proposed wording: “where relevant”, is not providing legal clarity on how the relevancy of ESG objectives shall be assessed. It should be clear, the ESG objectives of the customer should be investigated in a proactive way by insurance intermediaries and insurance undertakings and not only be considered if explicitly requested by the clients.	EIOPA takes note of the concerns around the terminology “where relevant” and proposes the introduction of a new Recital to provide further clarity.
FERMA - Federation of European Risk Management Associations		

Insurance Europe	The insurance sector does not see any potential conflicts of interest with regard to customers' assets and shareholders' rights that would be particular to ESG preferences. However, conflicts of interest can arise between different policyholders in pooled investments. There are often existing processes for managing these however. Ultimately, it will be for the insurer's management board to decide to what degree it reflects ESG considerations in their investment strategy. Customers can then decide to purchase products or not knowing these considerations. Moreover, the IDD delegated regulation already establishes appropriate criteria for determining different types of conflicts of interest. Any conflicts of interest that may arise from taking into account the ESG objectives of customers would be captured by these criteria, with the result that they would be handled in the same way as any other conflicts of interest under the IDD.	Noted. EIOPA agrees that conflict of interest arise in the context of pooled investments and has amended the explanatory text accordingly. Noted.

WWF European Policy Office	WWF agrees that there can be conflicts of interests in those particular areas because retail client's preferences will most likely not be addressed adequately by insurance intermediaries and insurance undertakings. This is because even if the clients mention their ESG references, there is a high risk that the final range of products proposed will not contain such information. This is due to the common lack of products containing non-financial objectives in the investment firms' selected packages. The objective of the IDD product oversight and governance requirements, which is to ensure they act in the customer's best interests during all stages of the lifecycle of the product or service, including with ESG preferences, should be ensured for the investment strategy designed for the customers' assets. 40% of households' assets in Europe are invested in pension funds and insurance funds, representing one of the main decision-makers regarding capital allocation in Europe. In addition, insurance and pension funds' long-term liabilities are more exposed to long-term risks. Thus, the HLEG recommended that "pension funds should consult their beneficiaries on their sustainability preferences and reflect those in the fund's investment strategy". EIOPA should take the same approach for IDD, there is enough evidence so that sustainability considerations become a mandatory step in the sequence of advisory dialogue. Regarding shareholder rights, WWF supports the HLEG's final recommendations: 'Facilitate retail investor choice by increasing transparency on the sustainability impact and processes of retail funds. The Commission should request all funds, destined for the retail market to disclose clear and understandable information on their sustainability impact, as well as information on the exercise of voting rights.' Additional EIOPA guidance on the mandates that asset owners use with asset managers should be developed about the exercise of voting rights : this is needed to ensure that customer preferences are properly integrated in the voting activities (including through proxy service companies). A SHARE ACTION 2018 report on proxy voting indeed reveals some problematic lack of consistency.	EIOPA agrees. It should be noted that the policy proposals on the Prudent Person Principle has been amended to address this issue. Noted. See comment above. Noted. Noted. Not in the scope of the mandate.
ClientEarth		

Principles for Responsible Investment (PRI)		
AMICE aisbl	The current applicable regime already provides for a set of criteria for establishing the existence of different types of conflicts of interest. There is no need to introduce new specific measures to take into account the ESG objectives in the identification of potential conflicts of interest - they must be taken into account according to the same processes as the other criteria.	Noted.
ICODA European Affairs		
2° Investing Initiative	Regarding shareholder rights, 2° Investing Initiative supports the HLEG's final recommendations: 'Facilitate retail investor choice by increasing transparency on the sustainability impact and processes of retail funds. The Commission should request all funds, destined for the retail market to disclose clear and understandable information on their sustainability impact, as well as information on the exercise of voting rights.'	Noted. Not within the scope of the mandate.

IRSG	The IDD and its Delegated Regulation already establish criteria for determining different types of conflicts of interest. These criteria already capture any such conflicts of interest that might arise from taking into account sustainability considerations. Assets invested according to ESG concepts could have a higher, lower or the same yield than other investments. The assessment of what factors are deemed relevant to best meet the insurer's objectives and liabilities against those of its policyholders needs to be a company specific decision. Requiring insurance undertakings to invest under considerations of sustainability factors could result in a detriment to customers without such preferences.	Noted. Noted. EIOPA agrees that there may be conflicts of interest between customers with and without ESG preferences.
12. What other situations do you envisage might give rise to conflicts of interest between the interest of customers in attaining their ESG objectives and an interest of another party?		
Anasf - Associazione nazionale consulenti finanziari		
The Personal Investment Management and Financial Advice Association (PIMFA)	No comment.	Noted.

European Savings and Retail Banking Group (ESBG)	While EIOPA's current wording does not contain provisions that would give rise to new substantial conflicts of interest, its reading in conjunction with level 1 legislation currently under negotiation may lead to substantially higher risks of conflict of interests. This is particularly the case with provisions on the alignment of remuneration policies with sustainability targets in the proposal for a Regulation on Disclosures on Sustainable Investments and Sustainability Risks. Legislators should keep in mind that such obligations could contravene the obligation not to incentivise recommending products that are not in the best interest of customers (as provided in Article 17 (3) IDD and Recital 46 in IDD and Recital 56 and Article 23 (1) in MiFID II).	Noted.
Schroders plc	-	
Allianz	Another conceivable constellation for possible conflicts of interest between a customer in attaining specific ESG objectives could arise both from the relationships of the insurance company to other customers and in relation to the investors of the insurance company. Assets invested according to ESG concepts could have a higher, lower or the same yield than other investments. The assessment of what factors are deemed relevant to best meet the insurer's objectives and liabilities against its policyholders needs to be a company specific decision. Requiring insurance undertakings to invest under considerations of sustainability factors could result in a detriment to customers with different ESG preferences as well as in a detriment for investors who gradually value less on attaining ESG criteria.	Noted. Noted. EIOPA agrees that there may be conflicts of interest between customers with and without ESG preferences.

Investment and Life Assurance Group	Our view is that, insofar as there are other potential conflicts of interest situations, these can be managed along the same lines as existing conflicts of interests.	Noted.
SD-M GmbH		
European Funds and Asset Management Association (EFAMA)	No comment	
Eumedion	This question falls outside the scope of the activities of Eumedion.	
BVI		
Actuarial Association of Europe (AAE)		

BIPAR (European Federation of Insurance Intermediaries)	The requirement to include a description of how remuneration policies are consistent with the integration of sustainability risks and the sustainable investment target of the product in question in the Commission proposal on disclosures (article 4.2 (c) of the proposed Regulation on disclosures relating to sustainable investments and sustainability risks) seems to be in conflict with the IDD and the MiFID II, in particular the requirement to act in the customer's best interests. The IDD states that there should be no incentive to recommend a given product other than in the best interests of the customer (Article 17(3) of IDD, Recital 46 of IDD). MiFID II sets similar requirements (Article 23(1) of MiDIF II, Recital 56 if MiFID II). Conflicts of interest might therefore arise if remuneration policies are required to be set up in such way as to meet certain sustainability targets, such that employees would be incentivised to recommend a particular product to a customer. This would be potentially in conflict with the customer's demands and needs. BIPAR believes that introducing explicit legal reference to sustainability risks in relation to remuneration policies is not necessary. We support therefore EIOPA's view regarding the remuneration policy.	Noted. Noted. EIOPA agrees with the given example. Noted.

German Insurance Association	With regard to the European Commission's action plan on sustainable finance, we noticed that some of the proposed regulations might cause conflicts of interest. In particular, the proposal on disclosures on sustainable investments and sustainability risks may lead to these conflicts. The IDD states that there should be no incentive to recommend a given product other than the best interest of the customer (Art. 17(3) IDD, Recital 46). The MiFID II sets similar requirements (Recital 56 and Article 23(1)). In contrast, the proposal for a regulation on disclosures on sustainable investments and sustainability risks aims to contribute to long-term sustainable growth in general and encourages market participants to act accordingly (Recital 5). Article 4 (1) (c) and (2) (c) of the EC´s draft sets out disclosure obligations on how remuneration policies are consistent with the sustainable investment target of the product in question. However, remuneration polices which take account of ESG-considerations would likely be in breach of the conflicts of interest provisions in IDD and MiFID II.	Noted. Noted.

Finance Watch	There will be products where it will not be possible to reflect clients ESG preferences. This is notably the case when the insurance product provides that the undertakings will share a part of general portfolio return with policy holders (ref to page 17 of the consultation document). In those situations, it will be essential to ensure the maximum level of transparency with the customers who shall be aware of the insurance undertaking portfolio investment strategy to be able to assess the portfolio strategies of different insurance undertakings and so chose the one that reflects the best its ESG considerations. Finally, the customer might decide to opt for an insurance-based investment product that relies on specific funds and Undertakings for the Collective Investment in Transferable Securities.	Noted.
FERMA - Federation of European Risk Management Associations		

Insurance Europe	The IDD states that there should be no incentive to recommend a given product other than in the best interests of the customer (Article 17(3) IDD, Recital 46). MiFID II sets similar requirements (Recital 56 and Article 23(1)). The proposal for a regulation on disclosures on sustainable investments and sustainability risks aims to contribute to long-term sustainable growth in general and encourages market participants to act accordingly (Recital 5). Article 4 (1) (c) and (2) (c) of the EC´s draft sets out disclosure obligations on how remuneration policies are consistent with the sustainable investment target of the product in question. Conflicts of interest might therefore arise if remuneration policies are required to be set up in such way as to meet certain sustainability targets, such that employees would be incentivised to recommend a particular product to a customer. This would potentially conflict with the customer's demands and needs, and the requirement to act in his or her best interests.	Noted. EIOPA agrees with the given example.
WWF European Policy Office	Answered in Q10.	
ClientEarth		
Principles for Responsible Investment (PRI)		
AMICE aisbl	Conflicts of interest may occur in cases where remuneration policies are set in order to achieve sustainable investment targets (where employees have a financial gain) to propose a specific product. This could potentially not be suitable to the customer and meet his/her demands and needs.	Noted. EIOPA agrees with the given example.

ICODA European Affairs		
2° Investing Initiative	See our answer to Q10	
IRSG	The IDD states that there should be no incentive to recommend a given product other than in the best interests of the customer (Article 17(3) IDD, Recital 46). MiFID II sets similar requirements (Recital 56 and Article 23(1)). The proposal for a regulation on disclosures on sustainable investments and sustainability risks aims to contribute to long-term sustainable growth in general and encourages market participants to act accordingly (Recital 5). Article 4 (1) (c) and (2) (c) of the EC´s draft sets out disclosure obligations on how remuneration policies are consistent with the sustainable investment target of the product in question. Conflicts of interest might therefore arise if remuneration policies are required to be set up in such way as to meet certain sustainability targets, such that employees would be incentivised to recommend a particular product to a customer. This would potentially conflict with the customer's demands and needs, and the requirement to act in his or her best interests.	Noted. EIOPA agrees with the given example.
13. What measures, if any, should be taken to address conflicts of interest arising specifically between the customer's interest in attaining his ESG objectives and the interest of another party?		
Anasf - Associazione nazionale consulenti finanziari		

The Personal Investment Management and Financial Advice Association (PIMFA)	We agree with EIOPA’s approach, the introduction of the new recital and the changes to Article 3(1). In particular, we welcome the use of the wording ‘where relevant’ within Article 3(1) as this clarifies the position that insurance intermediaries will have to take into account sustainability considerations (as one factor among other interests) in relation to only those clients, who have either proactively or after specific questioning, made known that they have ESG preferences. We agree that conflicts of interest may arise when intermediaries provide advice on products with ESG objectives, in the same way as they may arise for products without ESG objectives. We believe that the existing IDD rules on conflicts of interest are adequate and should apply in any of the situations envisaged by the above questions.	Noted. Noted.
European Savings and Retail Banking Group (ESBG)	See response 11	
Schroders plc	Since there is no definition of "ESG objectives" it is difficult to fully assess this question.	Noted.

Allianz	Any potential conflict of interest which may arise with regard to ESG objectives should already be covered by the existing framework of the IDD and handled as any other conflict of interest under the IDD. As a result, any conflict of interest that may result should be addressed in the same way as any other conflict of interest under the IDD. Its delegated acts are sufficient. From the perspective of distribution law (IDD), we endorse in principle a taxonomy which is unambiguous and uninterpretable in order to avoid liability risks for the product manufacturers and distributors. Furthermore, a regulatory framework should not allow divergent interpretations at national level. In this context, we consider the current design of the ESG taxonomy in general not being fit for purpose (see the upcoming AZ reply to the EU Com TEG consultation on taxonomy for further details).	Noted. Noted.
Investment and Life Assurance Group	We do not believe that anything further needs to be done to address these conflicts of interest arising specifically in relation to ESG objectives, as this is already covered in the high-level principles.	Noted.
SD-M GmbH		
European Funds and Asset Management Association (EFAMA)	No comment	
Eumedion	This question falls outside the scope of the activities of Eumedion.	Noted.
BVI		

Actuarial Association of Europe (AAE)		
BIPAR (European Federation of Insurance Intermediaries)	The conflict of interests that may arise when intermediaries provide advice on products with ESG objectives are the same that could arise when advice is provided on products without ESG objectives. BIPAR believes that the current rules on conflict of interests as laid down in the IDD and the level II text on IBIPS adequately cover every situation of conflicts-of-interests that may arise and they should also apply to the advice of sustainable products. Please see also our comment under Q10 and Q11.	Noted.
German Insurance Association	We believe the steps to be taken should be the same as for conflicts of interest which may arise in relation to any other objectives of the customer. These measures need to be a company specific decision appropriate to their size, organization and the nature, scale and complexity of their business, types of offered products as well as to the risk of damage the interest of the customer.	Noted.

Finance Watch	In order to help mitigate conflicts of interest certain conditions could be applied to the remuneration of insurers and insurance distributors. These conditions could firstly include a ban on commissions, which create a financial incentive for certain products to be promoted regardless of whether or not they are in the best interest of a customer. A second area of focus could be on fee structures within products being sold. For example, the fees linked to an insurance product could be spread over the life of the product, but weighted towards end of the product holding period. The full payment of the fees could then be assessed through the product holding period, with evidence provided to the customer of how their ESG objectives have been met. The customer could be given a possibility to question this evidence and either pay a reduced fee or be given an option to exit the product without withdrawal penalty fees, if they consider that the evidence does not sufficiently prove that their objectives have been met.	Noted. A ban on commission would need to be implemented by the European Legislators. EIOPA has already provided Technical Advice for the IDD with regard to commissions and the question of detrimental impact.
FERMA - Federation of European Risk Management Associations		

Insurance Europe	Insurance Europe believes that the steps to be taken should be the same as for conflicts of interest which may arise in relation to any other objectives of the customer. Any potential conflicts of interest that may arise will therefore be addressed in the same way as any other conflict of interest under the IDD. Thus, the newly implemented provisions of the IDD and its delegated acts are sufficient to support the customer's demands for products that contribute to sustainable investment objectives, while remaining consistent with his or her demands and needs.	Noted.
WWF European Policy Office	The most important measure is for the retail client to be duly informed at all steps of the process with the financial adviser. The Commission's amendments of MiFID II / IDD Delegated Regulations include provisions where 'investment firms have to provide a report to the retail client on how the recommendation meets the client's objectives, including ESG preferences, if any.' This inclusion of ESG preferences regarding disclosure of investment firms to retail clients is not sufficiently matching the HLEG's recommendation . What the HLEG recommended is a mainstream approach across all funds where investment firms systematically disclose the sustainability impact and processes of the funds. The HLEG recommended as a first step for funds to disclose 'their strategy and portfolio exposure in relation to climate-related risks and opportunities'. The same approach should be applied on IDD and include and disclose sustainability considerations in the target market assessment of all life insurance products.	Noted. The suitability assessment is not part of the Technical Advice requested by the Commission. EIOPA proposes amendments to the Prudent Person Principles to better strengthen the link between said principles and the ESG preferences of the target market.
ClientEarth		
Principles for Responsible		

Investment (PRI)		
AMICE aisbl	We do not foresee extra requirements in this area. The existing measures foreseen under the IDD should be the same as for conflicts of interest which may arise in relation to any other objectives of the customer.	Noted.
ICODA European Affairs		
2° Investing Initiative	In addition to increasing transparency (see Q11), we recommend the to: • Make the definitions consistent with the policy goal and the impact expectations expressed by retail investors (see also Q14); • Acknowledge the fact that there is today a major gap between the demand that will be revealed by the new suitability assessment and the current offer of products; • Put the necessary measures in place to reduce the cost of implementation and product development for intermediaries, through for example further technical guidance.	Noted. EIOPA proposes amendments to the Prudent Person Principles to better strengthen the link between said principles and the ESG preferences of the target market.

IRSG	The steps to be taken should be the same as for conflicts of interest which may arise in relation to any other objectives of the customer. Any potential conflicts of interest that may arise will therefore be addressed in the same way as any other conflict of interest under the IDD. Some stakeholders are concerned that qualitative requirements should not distract the customer from their primary demands and needs where these relate to insurance, and that ESG related advice should therefore be offered to the customer as an additional service on a voluntary basis in such circumstances.	Noted. This issue relates to the question on how to consider the ESG preferences in the context of the suitability assessment and is not covered by the Commission's mandate and the proposed Technical Advice.
14. What current market standards or "labels" are you going to take into account or already taking into account for the consideration of ESG factors? Do you see any issues when relying on current market standards or "labels"? Please describe.		
Anasf - Associazione nazionale consulenti finanziari	One of the main obstacles to the development of ESG investments is the lack of a common definition of what constitutes sustainable investments. EU institutions should thus develop a common specific definition of what constitutes ESG investments, preferences, objectives and risks in order to create an effective level playing field, promote transparency and avoid regulatory arbitrage. The relevant definition may be based on the definition of sustainable investments under Article 2 (o) of the proposal for Regulation on disclosures relating to sustainable investments and sustainability risks.	Noted.

The Personal Investment Management and Financial Advice Association (PIMFA)	The work that has been undertaken by manufacturers and distributors by the European Working Group (‘EWG’) on Product Governance in respect of mainstream European funds following the implementation of MIFIDII has highlighted the need for very clear and precise definitions of target market and cost data The introduction of ESG preferences should have regard to the fact that data will invariably be codified and the data disseminated by data providers to distributors. We do not believe that relying on current market standards and labels is a satisfactory approach. In respect of product governance, the European Working Group (EWG) was a collaborative approach between manufacturers and distributors to ensure there was a common understanding of the data fields, for example in respect of target market descriptors, and that all stakeholders were applying the same definitions. It was notable that at the outset of the project different stakeholders and individual firms had different understandings as to what the detailed data fields meant. There needs to be a common approach for describing ESG positive products.	Noted.
European Savings and Retail Banking Group (ESBG)	Currently, a lack of common market standards that capture all relevant ESG factors leads to the use of a wide range of labels. This makes it difficult, or impossible, for customers to compare products. We therefore see the adoption of a common EU taxonomy as a step forward.	Noted.
Schroders plc	-	

Allianz	For investments there is currently no market standard or label when it comes to assessing single issuer. ESG criteria are always based on expert judgment based on public available information. Several data providers are in the market, currently we see also some consolidation in the market. Large provider are Morningstar, Sustainalytics, MSCI. Please keep in mind, that all investment and asset manager take one or more data provider as a basis for their own assessment. In addition, the PRI sets the standard in general, but this is principle based, similar to the Solvency II Prudent Person Principle. Concrete implementation differs between different companies since there is no common and compulsory standard available yet.	Noted.
Investment and Life Assurance Group	Not applicable	

SD-M GmbH	Sustainable Development Key Performance Indicators (SD-KPIs) are three material / relevant environmental, social and governance (ESG) indicators for the expected business performance of different sectors. The SD-KPI Standards were developed by SD-M® GmbH in cooperation with the German Environment Ministry, accountants and global investors and analysts - the latter two of whom influenced EUR 2 trillion in assets. The copyrighted SD-KPI Standard 2010-2015 forms the scientific basis. The copyrighted SD-KPI Standard 2016-2021 was launched in Sept. 2016 with support of the German Environment and Building Ministry and the Sustainability Accounting Standards Board (SASB), cf.: http://www.sd-m.de/files/SD-KPI_Standard_2016-2021.pdf. In April 2017 a Japanese translation and a Chinese translation was published. SD-KPIs are used for SD-KPInventory® of portfolios of asset owners and asset managers. SD-KPIntegration is taking place in active management processes of asset managers as well as for benchmarking and passive asset management processes using the iSTOXX SD-KPIndex® family, which currently consists of the 5 year outperforming EURO iSTOXX 50 SD-KPI, iSTOXX Europe 50 SD-KPI and iSTOXX Europe 600 SD-KPI indices, cf.: EURO iSTOXX 50 SD-KPI: https://www.stoxx.com/document/Bookmarks/CurrentFactsheets/SX5GTSDM.pdf iSTOXX Europe 50 SD-KPI: https://www.stoxx.com/document/Bookmarks/CurrentFactsheets/SX5GRSDM.pdf iSTOXX Europe 600 SD-KPI: http://www.sd-m.de/de/istoxx-europe-600-sd-kpi.html A global standard for material / relevant ESG / sustainability indicators is necessary for a cost-efficient integration in investment processes and to better influence investee companies' CSR disclosure and management.	Noted.

European Funds and Asset Management Association (EFAMA)	No comment	
Eumedion	This question falls outside the scope of the activities of Eumedion.	Noted.
BVI		
Actuarial Association of Europe (AAE)		

BIPAR (European Federation of Insurance Intermediaries)	Despite the willingness of our sector to promote investment in sustainable assets, BIPAR notices lack of offer of products labelled as targeting ESG objectives. Having in mind the need for very clear and precise definitions of target market, BIPAR believes that relying on current market standards and labels is not a satisfactory approach. Furthermore, it is important to highlight once again that there is lack of clarity as to what is meant by the term ESG preferences/objectives. Insurance and financial intermediaries need to have a clear and consistent understanding of what investments are considered sustainable, including all three ESG aspects. A well-built taxonomy is therefore necessary before insurance and financial intermediaries are obliged to take into account ESG risks and factors and provide to their customers advice on products marketed as targeting ESG objectives. This Consultation Paper seems to assume that there is a common understanding as to what ESG means which we believe does not reflect the current situation neither amongst insurance intermediaries and investment firms, nor amongst customers and potential customers. In addition, we believe that manufacturers of the product promoted/qualified as targeting ESG preferences should be the ones responsible to label the product and subsequently the ones to comply with the ESG disclosure obligations. Only then, the legislation imposing obligation to take into consideration (where relevant) sustainability factors into the advice can be triggered. In the interest of clarity, labelling should be as standardised as possible. In this context, we would like to point out that potential investors may express ESG preferences, not only because they are concerned about environmental and social problems, but for a variety of reasons. Some ESG investment approaches, for instance, achieve much better returns over 3/5/7-year periods, or are good for risk mitigation; any ESG benefits are incidental. BIPAR calls for a broader approach which will allow acknowledging that ESG strategies can be desired by investors for their impact on returns (and risk). Any principles or guidance should adopt a more balanced approach and highlight that there are other reasons for pursuing ESG investments.	Noted.

German Insurance Association	For investments there is currently no common market standard or label. There is a wide range of different "Labels" like Dow Jones Sustainability Index (DJSI) or, ESG-Scorings by ESG-rating agencies like MSCI, Sustainalytics or ISS oekom. In addition, the PRI contain general guidelines, but these are principle based, similar to the Solvency II Prudent Person Principle. Concrete implementation differs between different companies since there is no common and compulsory standard available yet. For investments, which are not listed and not traded like infrastructure projects they might need internal audit processes. This fragmentation makes it difficult for customers to compare different products. For the insurance undertakings and insurance intermediaries it could lead to legal uncertainty and liability risks, inter alia, in the advice process caused by different understandings on what is a sustainable investment. Therefore any new distribution requirements – such as the disclosure obligations which are currently developed – should absolutely be preceded by the complete rules on taxonomy.	Noted.
Finance Watch	Currently only in some countries there are some standards for the financial products (like the French Label on the Energy transition and LuxFlag in Luxembourg) and there no common definitions around sustainable and responsible investments, which are based on different methodologies, rely on arbitrary scoring and are difficult compare. As far as we do not have EU standards for ESG financial products and a certification process, it will not be possible to improve the customer trust in sustainable products. As highlighted in the Commission Action Plan on Sustainable Finance, the lack of harmonized standard is one important obstacle in the development of market for sustainable financial products.	Noted.

FERMA - Federation of European Risk Management Associations		
Insurance Europe	There is still a lack of comprehensive market standards that capture all relevant ESG factors in a suitable way. Currently there is a wide range of different "labels" like UNPRI, Dow Jones Sustainability Index (DJSI), ESG-Scorings by ESG-rating agencies like MSCI, Sustainalytics or ISS oekom. Most companies use a metric, eg scoring from MSCI at a fund level, to define ESG profiles of funds; however, there is not a market consensus on these scores (in that different ESG data providers give different answers). As such, different companies can rate the same fund differently. Moreover, for investments that are not listed and not traded, like infrastructure projects, they might need internal audit processes. This fragmentation makes it difficult for customers to compare different products. For insurance undertakings and insurance intermediaries, it could lead to legal uncertainty and liability risks, inter alia, in the advice process caused by different understandings of what is a sustainable investment.	Noted.

WWF European Policy Office	ESG integration is increasingly seen by the industry as key to sustainable investment. But it is questionable whether, and to what degree, considering such factors leads to positive environmental outcomes in the real world. We have major concerns on how current market practices design ESG metrics and apply them, as they tend to mainly focus on processes without properly assessing impacts. ESG scoring is primarily based on companies' policies and processes, but the focus is on their adoption, less so in their implementation and even much more rarely on their impact in the real economy and society. For example a fossil fuel company may design an oil spill plan, a risk management plan or an energy efficiency plan, and this can be considered best practice by the finance industry. However, this is not measuring the most important issue, which is whether the business model of the fossil fuel company is aligned (or will align) with the climate Paris Agreement, ie whether the core of the company's business model is or will become sustainable or not. Compared to this issue, the oil spill plan, the risk management plan or the energy efficiency plan are secondary. In the short-medium term, the ESG approach needs to significantly evolve in order to focus on outcomes and impacts, not solely on policies and direct operations, to become forward looking and shape impact metrics everywhere possible.	Noted.
ClientEarth		
Principles for Responsible Investment (PRI)		

AMICE aisbl	There are already a number of different standards adopted by various entities, and we are aware of a number of entities we represent that are signatories to the UN Principles for Responsible Investments. It will be a positive step to encourage converging standards for better reporting and insight.	Noted.
ICODA European Affairs		

2° Investing Initiative	We are concerned with the definition of "sustainable investments" applied to financial products currently proposed by the EC and used by most labelling initiatives. We think the definitions are flawed. The problem is that most definitions equate "increasing the exposure of a portfolio to a green economic activity" with "contributing to the decarbonization of economic activities via an investment strategy", which is the policy goal behind the EC Action plan. These two objectives are however very different: • Investors can increase their exposure to green activities and have a negative influence on the development of these activities (e.g. a hedge fund buying a Tesla stock and pressuring the top management to cut investment and increase short term profits), • On the other hand, investors can be exposed to "brown activities" and still have a positive influence on the reduction of carbon emissions (e.g. investors using their voting power to pressure high carbon companies to change their investment plans). The definition currently proposed by the EC is over-simplistic: it only focuses on exposure to green activities only, while excluding investment strategies that use the influence on investees (via voting rights, conditionality of loans, etc.) that happen be the most popular among investors and banks. Basing a label on such a definition will lead to include investment strategies that have no associated environmental benefits and excludes others that are associated with environmental benefits.	Noted.

IRSG	For industrial business, with UNEP_FI and the Principles for Sustainable Insurance the industry is developing shared industry guidance on material ESG factors for different types of sectors/underwriting. On the personal lines side there are currently no market standards, however some property coverage recognizes energy efficiency standards in the pricing or when implementing sustainable claims (e.g. BREEAM, LEED), but this is in the minority. An example is available relating to Folksam in Sweden, where non life insurance had the Swedish label ”Bra miljöval” (good environmental choice). The undertaking thereby committed not only to the physical aspects to the insurance (like replacement cars, rebuilding material etc) but also to certain environmental standards in the investment portfolio. This was a way to address consumer preferences.	Noted.
15. Do you agree with the proposed amendments, in particular whether the ESG preferences of the customers should be considered in the assessment of the target market?		
Anasf - Associazione nazionale consulenti finanziari	Yes	
The Personal Investment Management and Financial Advice Association (PIMFA)	Yes	

European Savings and Retail Banking Group (ESBG)	Yes	
Schroders plc	No	
Allianz		
Investment and Life Assurance Group	Yes	
SD-M GmbH	Yes	
European Funds and Asset Management Association (EFAMA)	No	
Eumedion		
BVI		
Actuarial Association of Europe (AAE)		
BIPAR (European Federation of Insurance Intermediaries)	Yes	
German Insurance Association		
Finance Watch	Yes	
FERMA - Federation of European Risk		

Management Associations		
Insurance Europe	Yes	
WWF European Policy Office	Yes	
ClientEarth	No	
Principles for Responsible Investment (PRI)		
AMICE aisbl	No	
ICODA European Affairs	No	
2° Investing Initiative	No	
IRSG		
Please give reasons for your answer:		

Anasf - Associazione nazionale consulenti finanziari	We believe that ESG preferences should be considered in the assessment of the target market by the product manufacturer in order to integrate and support, at a more general and preliminary level, the recent proposals by the European Commission aimed at amending the delegated acts under MiFID II and IDD (Commission Delegated Regulations 2017/565 and 2359) to ensure that sustainability considerations are taken into account in the advisory process, both in customer profiling and subsequent product selection. All these proposals also empower the key role played by financial advisors in promoting awareness of ESG considerations among citizens, thereby fostering financial education and responsible and informed investment decisions. Specific attention shall be paid to the possibility that the choice of ESG considerations and objectives may affect the risk profile thereby modifying the attribution to a specific risk category: other factors being equal, the choice of ESG investment policies could in fact change the risk level of the investments with a possible reduction in the degree of risk (in this regard, it will be important to verify the evidence coming from empirical studies on the markets).	Noted.

The Personal Investment Management and Financial Advice Association (PIMFA)	We agree with the suggested approach. In particular we welcome the use of the wording 'where relevant' in the recital and in the amended IDD articles as this clarifies the point that intermediaries will be required to consider ESG factors in the product governance process only when the insurance product is marketed as having an ESG profile. We would like to reiterate that a first priority is to define the meaning of 'sustainable' and have a common and well-established classification criteria, before imposing on intermediaries the obligation to take into account non-financial considerations and provide advice on sustainable products to their clients. The term ESG is used in various contexts throughout the CP but there is lack of clarity as to what is meant by the term which we highlight as being problematic. We note the European Commission's definition of 'sustainable investments' within its proposal "on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341" and also the list of ESG factors set out in the Commission's impact assessment (SWD(2018) 264). It may be helpful if the EIOPA amendment to the legislation had a reference to this material. In any event, insurance and financial intermediaries must have a clear and consistent understanding of what investments are considered sustainable and a common understanding of all three ESG aspects. A well-constructed and established taxonomy is therefore necessary before insurance and financial intermediaries are obliged to take into account ESG risks and factors and provide advice on these types of products to their clients. The content of the CP assumes there is a common understanding as to what ESG means which we do not believe reflects the current position amongst insurance intermediaries and investment firms and certainly does not reflect the current position amongst clients and potential clients. We believe IDD regulation should be amended to include a definition of ESG preferences. We note that the draft Commission Delegated Regulations on sustainable finance states in Article 1 'ESG preferences' means a customer's or potential customer's choice as to whether and which environmentally sustainable investments, social investments or good governance investments should be integrated into his or her investment strategy.' In our view there is a difference between taking account of a client's ESG preferences and receiving a direct instruction from a client not to invest in certain companies or sectors.. Even with an established taxonomy there will still be elements relating to ESG factors which are subjective. EIOPA may wish to consider whether the	Noted. Noted. Noted. The draft has been amended with a reference to COM's proposal. Noted.

	proposed drafting adequately addresses this point. Firms have significant concerns about meeting their obligations during the period, (which is a number of years), when the taxonomy has not been established for each of the components of ESG. In particular firms are unclear about the interaction between the three components of ESG where the taxonomy is only available for one component.	

European Savings and Retail Banking Group (ESBG)	We are satisfied with the recommendation that entities should be required to consider ESG factors in the product approval process only when products are designed to target customers with ESG preferences. Nevertheless, we wish to express some concern about how integrating ESG considerations in the product approval process should be implemented. We would appreciate more guidance on this point.	Noted. EIOPA will consider the issuance of further guidance at a later point in time.
Schroders plc	We are concerned that the consultation paper fails to differentiate between who is bearing the risk: Where the insurance company bears the investment risk (e.g. P&C insurances and non-unit linked life insurances), it is appropriate that the company itself should manage the ESG investment risks in a way that reflects the duration of the liabilities that it is backing. Only in unit linked business where the actual policyholder bears the investment risk, it is appropriate to take the policyholder's view into account.	Noted. In EIOPA's view ESG considerations may also be relevant for non-life products.

Allianz	We believe, that insurers should not be required to consider ESG factors in the product approval process for the whole range of insurance products, but only if the insurance product is to be addressed specifically to customers with ESG preferences - ie for ESG related products and target market. The main purpose of insurance products and more especially life- and investment-related insurance products is to cover longevity and mortality risk and to therefore provide a sound investment strategy for such risks. Therefore the currently established methodology to define and assess target markets for such products rightfully concentrates on the specific needs of customer groups with regards to those needs. Whether and to what extent the underlying investment strategy would include in addition sustainability considerations should only constitute a voluntary optional preference, both for the product manufacturer and also for the retail customer. For the time being there is not sufficient evidence that such sustainability considerations would be sufficiently clear defined. In addition the investment benefit or superior viability of such investments is not proven with sufficient evidence. Therefore we strongly recommend to avoid making sustainablitity considerations mandatory in target market assessments but to limit it for the section of business decision and customer preference to focus on ESG. From the perspective of distribution law (IDD), we endorse in principle a taxonomy which is unambiguous and uninterpretable in order to avoid liability risks for the product manufacturers and distributors. Furthermore, a regulatory framework should not allow divergent interpretations at national level. In this context, we consider the current design of the ESG taxonomy in general not being fit for purpose (see the upcoming AZ reply to the EU Com TEG consultation on taxonomy for further details). It must also be secured that there has been sufficient financial education and knowledge established to the average financial advisor and intermediary as well as to the average retail customer basis that allows to believe that such ESG related financial advice will be helpful and relevant. In this context, a transitional period in which ESG consulting is not mandatory but can only take place on a voluntary basis could be discussed.	EIOPA agrees. The draft TA requires insurance undertakings to consider ESG considerations, only, if the insurance product is supposed to be distributed to customers with ESG preferences. Noted. Agreed. See comment above. Noted.

		Noted.

Investment and Life Assurance Group	We agree with the proposed amendments and, in particular, the approach that ESG preferences of customers must be considered only where they are relevant for the product design and only if the insurance product is intended to have an ESG profile.	Noted.
SD-M GmbH		
European Funds and Asset Management Association (EFAMA)	For the ESG preferences of the customers to be considered it is important to clarify who the risk bearer is. In the case this is the insurance company it is appropriate that the ESG preferences are set by the company itself. However in the fewer cases that the customer bears the risk, such as the case of unit-linked business, it is appropriate to take into account the ESG preferences of the customer.	Noted.
Eumedion	This question falls outside the scope of the activities of Eumedion.	Noted.
BVI		
Actuarial Association of Europe (AAE)		

BIPAR (European Federation of Insurance Intermediaries)	Sustainability considerations should only be included in the target market assessment with respect to Insurance-based investment products (IBIPs), as opposed to life and non-life products. The Commission's Action Plan on "financing sustainable growth" talks about taking due account of environmental and social considerations in investment decision-making, leading to increased investments in longer-term and sustainable activities. No reference is made to life or non-life insurance products. As mentioned above, the introduction of the wording "where relevant" in recital 5 (bis) and the relevant articles of the IDD Delegated Regulation, as proposed by EIOPA, is considered a good means to clarify that insurance intermediaries will be required to consider ESG factors in the product oversight and governance process, only when the insurance product in question is marketed as having an ESG profile. BIPAR therefore suggests introducing the wording "if any" in addition to "where relevant" in the relevant articles of the proposal amending the IDD Delegated Regulation, in order to be consistent with the Commission proposal amending the IDD Delegated Act as published in January 2019. Article 4(3) of the amended IDD Delegated Regulation should as follows: "The product approval process shall: (a) ensure that the design of insurance products meets the following criteria: (i) it takes into account the objectives, interests and characteristics of customers, including (where relevant) ESG preferences, if any;" Article 8(3) of the amended IDD Delegated Regulation should as follows:	In EIOPA's view ESG considerations may also play a role for non-profit/non-participating insurance products. EIOPA is of the view that ESG considerations can be taken into account with regard to all insurance products, not only the insurance-based investment products and life insurance products with profit participation. EIOPA underlines that insurance undertakings are not required to take ESG considerations into account when designing and manufacturing insurance products, but that the proposals emphasise the manufacturer's discretion to do so, if wished. Noted. EIOPA agrees with the need of consistency, but would like to point out that the legislative procedure is still not yet finalised.

	"The information referred to in paragraph 2 shall enable the insurance distributors to: (a) understand the insurance products; (b) comprehend the identified target market for the insurance products; (c) identify any customers for whom the insurance product is not compatible with their needs, characteristics and objectives, including (where relevant) ESG preferences, if any; (d) carry out distribution activities for the relevant insurance products in accordance with the best interests of their customers as prescribed in Article 17(1) of Directive (EU) 2016/97." Article 10(2) of the amended IDD Delegated Regulation should as follows: "The product distribution arrangements shall: (a) aim to prevent and mitigate customer detriment; (b) support a proper management of conflicts of interest; (c) ensure that the objectives, interests and characteristics of customers including (where relevant) ESG preferences, if any are duly taken into account." Article 11 of the amended IDD Delegated Regulation should as follows:	Noted. Noted. Noted. Noted.

	"Insurance distributors becoming aware that an insurance product is not in line with the interests, objectives and characteristics of its identified target market (including (where relevant) ESG preferences, if any or becoming aware of other product-related circumstances that may adversely affect the customer shall promptly inform the manufacturer and, where appropriate, amend their distribution strategy for that insurance product."	Noted.
	BIPAR notes the will to introduce sustainability considerations in the insurance and investment value chain as a whole. However, considering that the classification criteria specifying what is sustainable are still under examination and the supply of new sustainable products is still low, BIPAR calls for a reasonable approach in order to achieve optimal sequencing between the relevant legislative initiatives. The market needs more time to react to the new "sustainability reality" and address the public's needs in a stable and efficient way. A first priority should be to define what is sustainable. Only then, the intermediaries are obliged to take into account non-financial considerations and to provide advice on sustainable products to their customers. Secondly, manufacturers of the product promoted/qualified as targeting ESG preferences should be the ones responsible to label the product and subsequently the ones to comply with the ESG disclosure obligations. Only then, the legislation imposing obligation to take into consideration (where relevant) sustainability factors into the advice can be triggered. In the interest of clarity, labelling should be as standardised as possible. This sequencing should be reflected in the application date of various legal acts. BIPAR believes that EIOPA should include in its technical advice a reference to the application date.	Noted. Noted.

German Insurance Association	Objective of the POG rules is to make sure that a product is compatible with the needs, characteristics and objectives of the customers belonging to the target market. If the product is addressed to customers whose specific requirements with regard to the product contains ESG preferences, these preferences are part of the targeted customers' objectives and needs. They should therefore be included in the assessment of the target market for this particular product. The determinations made in relation to the target market are subsequently applied in the testing, distribution and monitoring of the product. While the numerous additions to Articles 4 to 11 proposed by EIOPA reflect this, a clarifying recital on this point would in our view be sufficient.	Noted.
Finance Watch	This should be a key element of creating products that are compatible with the needs, characteristics and objectives of the customer. The proposed amendments to the Product Oversight and Governance Delegated Act should not, however, include the "where relevant" caveat. This risks creating legal uncertainty and therefore rendering the amendments ineffective, creating regulatory arbitrage arising from differing interpretations and implementation of the provisions. Ideally ESG factors would always be taken into account in the product approval process, not only for products that are supposed to have an ESG profile, as outlined in paragraph 100. Even in the case that these factors are not taken into account a minimum requirement to explain that they were not and why would already constitute a positive improvement.	A recital explains the understanding of "where relevant".

FERMA - Federation of European Risk Management Associations		
Insurance Europe	Insurance Europe is supportive of EIOPA's approach that insurance undertakings shall not be required to consider ESG factors in the product approval process of all insurance products, but only if the insurance product is to be advised or sold to customers with ESG preferences – ie ESG preferences of customers should be considered in the assessment of the target market only with regard to "ESG products". However, we see challenges with including ESG factors in the product approval process, and at this stage we are not sure how this will work in practice. Tailoring products to meet ESG preferences is appropriate for custom portfolios of High net worth policyholders, however for the mass market and default pension schemes, it is not viable to have a vast number of ESG versions of default funds and for pooled investments it is only possible to have a single ESG approach. A section or statement on a consensus view for ESG default funds would be helpful, with recommendations for self-investment choices to be available outside of the default with varying ESG characteristics. The objective of the POG rules is to make sure that a product is compatible with the needs, characteristics and objectives of the customers belonging to the target market. If the product is advised or sold to customers whose specific requirements with regard to the product contains ESG preferences, these preferences are part of the targeted customers' objectives and demands and needs. They should therefore be included in the assessment of the target market for this particular product. The determinations made in relation to the target market are subsequently applied in the testing, distribution and monitoring of the product. While the numerous additions to Articles 4 to 11 proposed by EIOPA reflect this, a clarifying recital on this point would in our view be sufficient.	Noted. Noted. Noted. EIOPA will consider the necessity to provide further guidance on the practical application at a later point in time. The amendments do not require insurance undertakings to offer a large number of ESG versions, but to ensure consistency between the ESG profile advertised to the identified target market and the management of assets under the Prudent Person Principle. Noted. EIOPA considers it important to introduce a clear reference in the legal text for the sake of

		legal clarity and in view of the novelty of this topic.

WWF European Policy Office	WWF agrees that when the 'EU taxonomy' will be available, it should be integrated in the product oversight and governance requirements of IDD. However, this will take a few years to fully materialise (until 2022 at least)). It is therefore necessary that market participants identify ESG classification standards they consider appropriate. It would be useful that EIOPA and the Commission recommend one (or few) particular ESG classification standard(s) in order to have the best possible harmonization. However, WWF disagrees with the following EIOPA's approach: 'ESG preferences have to be considered only where they are relevant for the product design'. We are concerned that the proposed amendments across the articles may lead to different interpretations by investment firms, with worrying wording used such as 'where relevant' or 'including ESG preferences, if any' that may be interpreted in a very narrow way by investment firms. With this wording, we strongly fear that investment firms providing investment advice and portfolio management could interpret the consideration of clients' ESG preferences as a 'comply or explain' exercise, which would significantly weaken the whole purpose of the delegated acts. The wording "where relevant" should be removed from the text, and the wording about ESG preferences should be framed as "including any ESG preferences" to ensure consistency. Given the Commission's Action Plan on sustainable finance and its objective to mainstream sustainable finance, and its objective to mainstream sustainable finance, the ESG issue should be reflected in all types of products and for all types of customers. EIOPA should include and disclose sustainability considerations in the target market assessment of all life insurance products.	Noted. EIOPA acknowledges the importance of the taxonomy, but would like to refer to the ongoing efforts to develop such taxonomy and to point out that EIOPA has not been mandated by the COM to elaborate on this topic in the context of this Technical Advice. In EIOPA's view it is too premature to require for all insurance products that ESG considerations are taken into account.

ClientEarth	We agree that ESG preferences of customers should be considered in the assessment of the target market, however we do not agree with the proposed amendments (see our response to question 16 below). We consider that ESG preferences should be considered during all stages of product oversight and governance. We believe that this is necessary in order to act in the best interests of clients, especially where those clients have expressed ESG preferences. Proper integration of ESG preferences into product oversight and governance is also an important element of maintaining customer trust, and avoiding green-washing.	Noted. Noted and agreed.
Principles for Responsible Investment (PRI)		

AMICE aisbl	AMICE proposes that a more effective way of embracing the proposed amendments would be using the device of a clarifying recital rather than the additions to the articles as proposed in this paper. Since the existing POG rules are designed to meet the needs of their specific target markets, if customers have a specific requirement with regards to ESG preferences, these will be covered in the current framework, rendering additional specifications through the proposed amendments to the delegated acts tautological. If the proposed changes were to be adopted nevertheless, it is important that any textual amendments include the wording "where relevant" to ensure that ESG-related issues are not given an inappropriate weighting compared to other factors in the target market assessment.	Noted. EIOPA considers it important to introduce a clear reference in the legal text for the sake of legal clarity and in view of the novelty of this topic.

ICODA European Affairs	Although EIOPA's assessment is understandable, such important inclusion which is based on a clear political and strategic choice of the EU should not be introduced as an obligation via a L2 text. It is after all in the interest of good governance that first the L1 text is changed and thereafter the L2 text, especially when it concerns such a novel and potentially far reaching impacting issue. In addition, it would be more coherent with the SII framework (L1 if and when changed see answers to Q 1-9 above) where requirements are suggested to be included in underwriting, risk management, investment management etc of the insurance undertakings that this is across the board made transparant for all customers, and not only those to which certain products are targeted. Therefore, in line with the request from EIOPA to describe an alternative, to suggest to the Commission corresponding and relevant changes to the L1 IDD text would be the most logical alternative.	EIOPA would like to point out that insurance undertakings are not required to take ESG considerations into account when designing and manufacturing insurance products, but that the proposals emphasise the manufacturer's discretion to do so, if wished. Noted. Noted.

2° Investing Initiative	More specific guidelines are needed in order to ensure that the product is actually compatible with the customers objectives. Given the diversity of objectives (See “On the Heterogeneity of Sustainable and Responsible Investors”, Klein et al forthcoming) this cannot be a simple ESG “yes” or “no” box ticking exercise. The Commission is very clear in its request for advice that the prevention of “misselling” is a major objective of the discussed revisions. Given the clear demand for impact from customers on the one side and the largely lacking products on the offer side, combined with lacking skills and agreed metrics for impact measurement for product managers, there is a significant risk for misselling due to conflict of interest (see question 10). In order to exclude the potential interpretation of the current wording as “generic ESG preferences/objectives”, we recommend adding the word “specific” in front of each time where ESG preferences/objectives are mentioned, e.g.: "3. Manufacturers shall only design and market insurance products that are compatible with the needs, characteristics and objectives, including SPECIFIC ESG preferences (where relevant), of the customers belonging to the target market." Obviously market participants would need much more detailed guidelines that should then be developed by EIOPA setting clear minimum standards, that ensure that misselling is avoided and products sold are suitable for the client’s specific investment objectives.	Noted and agreed. In order to better reflect the ESG preferences and the target market the wording of the legislative proposals have been amended, e.g. by amending “the” ESG preferences etc. Noted. Noted. EIOPA will consider further guidance on the application at a later point on time.

IRSG	We would support the proposed approach of EIOPA that insurance undertakings would not be required to consider ESG factors in the product approval process of all insurance products, but only if the insurance product is to be addressed to customers with ESG preferences. In other words, that the ESG preferences of customers would be considered in the assessment of the target market only with regard to “ESG products”. Please note the comments below for some qualifications in relation to this point. However, it can be difficult to ascertain the nature of customer preferences, particularly relating to something such as sustainability which is relatively intangible for many in an investment context. We suggest that caution be exercised in requiring actions based on an interpretation of customer preference which may be not fully formed, particularly in the absence of clear taxonomy. The objective of the POG rules is to make sure that a product is compatible with the needs, characteristics and objectives of the customers belonging to the target market. If the product is addressed to customers whose specific requirements with regard to the product contains ESG preferences, these preferences are part of the targeted customers’ objectives and needs. They should therefore be included in the assessment of the target market for this particular product. Too detailed requirements for sustainability in the POG regulations would be a hindrance, as there is no taxonomy created for ESG criteria yet that would form a transparent basis for customer information and product qualification. Against this background any compulsory advice on such aspects is prone to be misleading and causing liability issues in addition to potential frustration on the customer side towards the overall aims of sustainability. Additional aspects of the investment strategy such as sustainable investment and environmental targets are not conducive to providing customer risk protection per se. As the main purpose of life (and some investment) related insurance products is to cover longevity and mortality risk and to therefore provide a sound investment strategy for such risks, the currently established methodology to define and assess target markets for such products rightfully concentrates on the specific needs of customer groups with regards to those needs. Whether and to what extent the underlying investment strategy would include in addition sustainability considerations should be optional, both for the product manufacturer and also for the retail customer. Currently, there is not sufficient evidence that such sustainability considerations would be sufficiently clearly defined and	Noted. EIOPA underlines that insurance undertakings are not required to take ESG considerations into account when designing and manufacturing insurance products, but that the proposals emphasise the manufacturer’s discretion to do so, if wished. Noted. Noted. Noted. See comment above.

	the investment benefit or superior viability of such investments is not proven with sufficient evidence. Therefore some stakeholders consider that there should not be a requirement for mandatory sustainability considerations in target market assessment.	
16. Do you agree that the identification of the target market should specify whether an insurance product is compatible being distributed to customers with ESG objectives or not?		
Anasf - Associazione nazionale	Yes	

consulenti finanziari		
The Personal Investment Management and Financial Advice Association (PIMFA)	No	
European Savings and Retail Banking Group (ESBG)	Yes	
Schroders plc		
Allianz		
Investment and Life Assurance Group	Yes	
SD-M GmbH	Yes	
European Funds and Asset Management Association (EFAMA)		
Eumedion		
BVI		
Actuarial Association of Europe (AAE)		
BIPAR (European Federation of	Yes	

Insurance Intermediaries)		
German Insurance Association		
Finance Watch	Yes	
FERMA - Federation of European Risk Management Associations		
Insurance Europe	No	
WWF European Policy Office	Yes	
ClientEarth	Yes	
Principles for Responsible Investment (PRI)		
AMICE aisbl	No	
ICODA European Affairs		
2° Investing Initiative	Yes	
IRSG		
Please give reasons for your answer:		

Anasf - Associazione nazionale consulenti finanziari	We believe it is necessary to specify whether an insurance product is compatible being distributed to customers with ESG objectives (or whether it is not) in light of the growing market complexity – also with regard to ESG issues – and the resulting demand for information and training expressed by financial advisors and citizens. More in general we point out the need to achieve a complete degree of transparency in the insurance sector, so as to make it possible, firstly in the interest of citizens, an effective classification of the content of insurance contracts with regard to all the relevant aspects, including ESG considerations.	Noted.
The Personal Investment Management and Financial Advice Association (PIMFA)	The identification of a product as being compatible to being distributed to customers with ESG objectives can be helpful for distributors in recommending products that best meet a customer's needs; however identifying a product as one that does not meet ESG objectives may introduce a value judgement and present the product as less preferable. We do not believe that customers should be pressurised in choosing ESG products and therefore do not agree that the identification of the target market should specify that an insurance product does not meet ESG objectives.	Noted. The proposed amendment do not require insurance undertakings to state in the description of the target market that a specific product does not meet ESG objectives/does not have an ESG profile.
European Savings and Retail Banking Group (ESBG)	We agree that ESG considerations would need to be taken into account in the description of the target market only when products are targeted at customers who express ESG preferences. We would nonetheless ask to clarify EIOPA's expectations on the level of granularity required in order to sell a product not targeted at clients with ESG preferences when it is deemed in the client's best interest to sell such a product to a client expressing ESG preferences.	Noted. Please note that his question concerns the suitability assessment in the context of advice which is not matter of this Technical Advice.

Schroders plc	-	
Allianz	ESG objectives should only be considered – on a voluntary basis - in the identification of a target market if the product is designed for customers with these preferences and therefore ESG-related products. On that basis we support the identification of the target market to be specified in the product information document. From the perspective of distribution law (IDD), we endorse in principle a taxonomy which is unambiguous and uninterpretable in order to avoid liability risks for the product manufacturers and distributors. Furthermore, a regulatory framework should not allow divergent interpretations at national level. In this context, we consider the current design of the ESG taxonomy in general not being fit for purpose (see the upcoming AZ reply to the EU Com TEG consultation on taxonomy for further details).	Noted and agreed. Noted.
Investment and Life Assurance Group	We are of the view that the identification of the target market should specify whether an insurance product is compatible with being distributed to customers with specific ESG objectives, but only where this is relevant.	Noted and agreed.
SD-M GmbH		
European Funds and Asset Management Association (EFAMA)	No comment	
Eumedion	This question falls outside the scope of the activities of Eumedion.	Noted.
BVI		

Actuarial Association of Europe (AAE)		
BIPAR (European Federation of Insurance Intermediaries)	It is important that the future EU texts on sustainable finance introduce no judgement of quality of financial products that do not pursue ESG objectives. "Non-sustainable" products should not be considered as being less preferable products. Based on the principle that the scope of the additional requirements introduced is limited to products pursuing ESG objectives, it should be made clear that there should always be two classes of products: a) sustainable products, i.e. products marketed as pursuing environmental, social or governance objectives, and b) other products. This will result in two types of target market: a) target market in which certain ESG characteristics are specified and b) target market without any reference to ESG characteristics. By distinguishing between sustainable products and other products, the risk of "greenwashing" in the existing documentation is prevented. ESG objectives should be considered in the description of the target market only if the product is designed for customers with ESG preferences. Specifying in a positive way that a product is compatible for customers with ESG objectives would be helpful for distributors to recommend products that best suit their customers' needs. BPAR believes that introducing a requirement to state in a negative way that particular investment/insurance products do not pursue ESG objectives is not appropriate. This is for various reasons: 1) the concept of sustainability is still evolving, 2) no studies on behavioural economics have been carried out to measure the impact of such an explicit negative statement on potential investors. It could be that consumers would automatically consider how they would appear in the eyes of the provider/distributor (and others) and have the belief that they would be held in a lower regard if they do not choose sustainable products, so would feel pressured to opt for a product with ESG profile. Consumers should experience no pressure to choose financial	Noted and agreed. For that purpose a clear reference to ESG has been proposed to be introduced in the different POG requirements. Noted. Noted. Noted and agreed. Noted. The proposed amendment does not

	products with ESG objectives Leading people into making choices that contribute to ESG factors may be a good thing, but that is a separate sentiment to obtaining a person's genuine investment objectives. This is to be seen in relation to the fact that consumers often ask for a mixed portfolio composed of both sustainable products and traditional. This is not a black or white story and we believe that a negative statement would not suit at this moment the interests of clients. BIPAR therefore suggests deleting the reference to ESG preferences in the Article 5.2 of the proposal amending the IDD Delegated Regulation.	entail an obligation, but an option.
German Insurance Association	The ESG objectives, like any other features, should be considered in the description of the target market only if the product is designed for customers with these preferences.	Noted and agreed.

Finance Watch	This would help to ensure that there is clarity over products being marketed as taking into account ESG preferences. Additionally, the justification for not including a requirement to state that products do not pursue ESG objectives in paragraph 103 is flawed. Whilst no taxonomy for the classification of ESG investment exists and other uncertainties around how ESG preferences can be met exist, it seems prudent to ensure that this is made clear to customers. This could help to address issues around green-washing and the creation of misconceptions amongst insurance customers.	Noted. EIOPA acknowledges the concerns and would like to clarify that the proposals allow manufacturers to state in the target market that a specific insurance product is not compatible for customers with ESG preferences; but there is no obligation to do so.
FERMA - Federation of European Risk Management Associations		
Insurance Europe	Insurance Europe believes that ESG objectives, like any other features, should be considered in the description of the target market only if the product is designed for customers with these preferences.	Noted and agreed.

WWF European Policy Office	However, WWF disagrees with EIOPA's idea of finding it premature to require manufacturers of insurance products to state (mandatorily) that the respective insurance product do not pursue ESG objectives, as recommended by the Commission. Given the urgency of the environmental and social challenges we face, we believe it is now timely to make this mandatory. In addition, WWF believes that if, as mentioned in Q2, 70% of retail investors are interested on sustainability issues, the burden of proof should be reversed – the customers that are not interested in ESG issues should explicitly express it, instead of asking the customers who are interested in ESH issues to express it.	Noted.

ClientEarth	We consider that assessments of the target market should consider whether the product is appropriate for clients with ESG objectives. This should be the case for ALL products. The inclusion of the phrase "where relevant" appears to actually narrow the scope of the existing regulation. For example, Article 5(3) of the IDD Delegated Regulation currently states that "manufacturers shall only design and market insurance products that are compatible with the needs, characteristics, and objectives, of the customers belonging to the target market". This wording already appears to require undertakings to consider customer objectives, which arguably includes ESG objectives. The proposed wording therefore appears to be carving out ESG preferences, so that they are only relevant to products which have an ESG profile. Narrowing the existing legislation in this way is a step backwards, and contrary to the aims of sustainable finance. The risk is that the proposed amendment provides undertakings with a carte blanche to avoid considering whether their products are compatible with customers who have expressed ESG objectives. This would remain so even once the taxonomy was adopted unless the delegated regulation was re-amended at a later date. We do not consider this to be in the best interests of customers. Furthermore, it may disincentivise manufacturers from designing ESG products if there is an unequal playing field. We would therefore propose removing the wording "where relevant".	Noted. EIOPA is of the view that the insurance undertakings should have the choice to define the target market for their insurance products. The proposed amendments open the possibility to insurance undertakings to distribute insurance products with ESG profile, but then require specific conditions to be fulfilled. The identification of the target market depends from the design of the product and in so far from the business decision of the insurance undertaking.
Principles for Responsible Investment (PRI)		

AMICE aisbl	ESG objectives, like any other features, should be considered in the description of the target market only if the product is designed for customers with these preferences. The use of the phrase “where relevant” should therefore be retained.	Noted.
ICODA European Affairs		
2° Investing Initiative	Given that according to market research a majority of customers does have non-financial investment objectives (see Q 10), it appears only reasonable that all products have to explain to what extend (if any) and by what means the products do take such objectives into account. Additionally, for many customers the link between non-financial preferences/objectives and financial products may still be unusual, and not intuitive as opposed to other products with well-known labels (washing machines, real estate, etc.). Therefore the clear identification of products that do NOT serve any ESG preferences/objectives seems to be a valid approach, in order to ensure that customers make an informed choice.	EIOPA would like to clarify that the proposals allow manufacturers to state in the target market that a specific insurance product is not compatible for customers with ESG preferences; but there is no obligation to do so.
IRSG	ESG objectives, like any other features, should be considered in the description of the target market only if the product is designed for customers with these preferences (see comments elsewhere in relation to the need for clear definition). While ESG products might offer a new category of products it should be stressed that it is currently highly uncertain under which circumstances and to which costs a compatible ESG product could be developed.	Noted.

17. Do you agree that the testing of the insurance product during the approval process as well as the monitoring and reviewing of the insurance product during its lifetime should comprise the ESG factors?		
Anasf - Associazione nazionale consulenti finanziari	Yes	
The Personal Investment Management and Financial Advice Association (PIMFA)	Yes	
European Savings and Retail Banking Group (ESBG)	Yes	
Schroders plc	Yes	
Allianz		
Investment and Life Assurance Group	Yes	
SD-M GmbH	Yes	
European Funds and Asset Management Association (EFAMA)		
Eumedion		
BVI		

Actuarial Association of Europe (AAE)		
BIPAR (European Federation of Insurance Intermediaries)	Yes	
German Insurance Association	Yes	
Finance Watch	Yes	
FERMA - Federation of European Risk Management Associations		
Insurance Europe	No	
WWF European Policy Office	Yes	
ClientEarth	Yes	
Principles for Responsible Investment (PRI)		
AMICE aisbl		
ICODA European Affairs		
2° Investing Initiative	Yes	
IRSG		

Please give reasons for your answer:		
Anasf - Associazione nazionale consulenti finanziari	We agree with the inclusion of ESG factors in the testing, monitoring and reviewing of the insurance product provided that the insurance product is supposed to have an ESG profile (par. 100 of the Consultation Paper). We also agree with par. 103: testing also requires assessing whether the underlying assets of an insurance-based product with ESG objectives are and remain eligible in light of the ESG objectives. Finally, we think that ESG factors might also be considered in relation to other insurance products, in addition to insurance-based investment products (cf. the example under par. 104, long term insurance contracts such as occupational disability insurance products). As explained in our answer to Q16, it is nonetheless necessary, as a preliminary condition, to achieve a complete level of transparency in the insurance sector.	Noted.
The Personal Investment Management and Financial Advice Association (PIMFA)	As long as the products are marketed as having an ESG profile, then we have no issue for ESG considerations to play a role in the lifetime of such products, including their testing, approval process, monitoring and reviews. We however would reiterate that the taxonomy around ESG has to be clearly established prior to such obligations being imposed and we would emphasise the importance of ensuring manufacturers and distributors adopt a common approach.	Noted.

European Savings and Retail Banking Group (ESBG)	Based on the IDD Regulation, all factors that have an impact on the product have to be analysed when testing, monitoring and reviewing a product. This implies that, in principle, ESG factors would be included without without further needing to expressly include them.	Noted.
Schroders plc		

Allianz	We consider it reasonable that insurance products to be validated initially and over time to ensure the trust of customers. However, such testing, monitoring and reviewing against ESG factors should only be mandatory for such products that have initially been designed to respect ESG criteria and aim to be distributed to an ESG affin target market. Any such ESG qualification must be based on the future common taxonomy. Sustainability considerations affect the whole POG requirements for insurers e.g. the product approval process, Art. 4 (3) a) accordingly to manufacturers have to ensure that the design of insurance products takes the objectives, interests and characteristics of customers into account. Furthermore Art. 5 (1) accordingly to manufacturers are obliged to identify the target market and the group of compatible customers during the product approval process. From the perspective of distribution law (IDD), we endorse in principle a taxonomy which is unambiguous and uninterpretable in order to avoid liability risks for the product manufacturers and distributors. Furthermore, a regulatory framework should not allow divergent interpretations at national level. In this context, we consider the current design of the ESG taxonomy in general not being fit for purpose (see the upcoming AZ reply to the EU Com TEG consultation on taxonomy for further details).	Noted.
Investment and Life Assurance Group	We agree that the testing of an insurance product during the approval process, as well as the monitoring and reviewing of the insurance product during its lifetime, should comprise ESG factors, but only where the product is intended to have an ESG profile.	Noted.

SD-M GmbH		
European Funds and Asset Management Association (EFAMA)	No comment	
Eumedion	This question falls outside the scope of the activities of Eumedion.	Noted.
BVI		
Actuarial Association of Europe (AAE)		
BIPAR (European Federation of Insurance Intermediaries)	BIPAR agrees in principle that ESG considerations may play a role in the context of insurance products monitoring and reviewing, provided that such products are marketed as targeting ESG objectives. The issue that BIPAR identifies in this respect is that the rapid developments in technology and science may swiftly change the concept of "sustainability" (see taxonomy which now focuses only on the environmental aspect). This may bring about difficulties in specifying whether underlying assets and investments are compatible or contradict ESG objectives.	Noted.
German Insurance Association	See our answer on question 15.	

Finance Watch	This would be an important part of creating products that can meet different ESG preferences. It would also be important for national competent authorities to have an overview of how these ESG factors are comprised in order to be then able to assess where or not they match with the target market and actual customer preferences in the end. In this regard an evaluation mechanism could also be introduced to check the extent to which these measures have had an impact towards achieving the Commission aims under the 'Action Plan - Financing Sustainability Growth' as part of an EIOPA evaluation (see responses to questions 1 and 2).	Noted.
FERMA - Federation of European Risk Management Associations		
Insurance Europe	See response to Q.15. The insurance sector would also highlight that any factor-based analysis should be reviewed periodically to take into account evolving released data and better factors, with the product evolving as required. In addition, we believe that all factors that can have a relevant influence on the compatibility of a product with the demands and needs of the customer should be taken in to account when testing, monitoring and reviewing a product. This principle is already laid down in the IDD and its delegated acts, so there is no need for any further requirements to be introduced.	Noted.

WWF European Policy Office	WWF agrees that sustainability factors should also be included in the product testing, monitoring and reviewing of the insurance product as the composition of the underlying assets should be in line with the retail client's preferences (including ESG preferences). This will contribute to ensuring consistency between the target market and the assets, which is very important. Sustainability considerations should definitely play a role in product monitoring: if ESG preferences and objectives are identified, the impact of those and the outcomes should be assessed, reviewed, and the retail investor should be properly and timely informed.	Noted.
ClientEarth	The ESG profile of a product may not remain static over time, and therefore ESG factors should logically be incorporated into the testing, monitoring and reviewing products over the course of their lifetime.	Noted.
Principles for Responsible Investment (PRI)		
AMICE aisbl	It is clear in the IDD and its delegated acts that the requirements as they currently stand mean that product testing during the approval process should include ESG factors if that is part of the requirement of the target market. In instances where this is required – and these circumstances may change over time – AMICE does agree that the testing should include ESG factors since this is already the case, and therefore any proposals to amend the delegated regulations should be reviewed in this light.	Noted.
ICODA European Affairs		

2° Investing Initiative	As this is a field of rapid and constant evolution, it is important to include ESG factors into approval, review and monitoring, in order to be able to ensure the customers preferences are correctly taken into account at all times.	Noted.
IRSG	Insurance products with an explicit ESG profile have to be validated initially and over time to ensure the trust of customers. However, such testing should be voluntary and at best be marketed by an ESG label that is based on a common taxonomy. Sustainability considerations affect the whole POG requirements for insurers, e.g. of course the product approval process and identification of the target market and the group of compatible customers during the product approval process.	Noted. However, EIOPA is of the view that the testing should not be voluntary, but mandatory as it constitutes an important element of the POG requirements.