

Comments Template on EIOPA-CP-19-004 Consultation paper on proposals for Solvency II 2020 Review Package on Supervisory Reporting and Public Disclosure		Deadline 18/10/2019 23:59 CET
Company name:	Captive Insurance Companies Association (CICA)	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. Please indicate if your comments on this CP should be treated as confidential, by deleting the word "Public" in the column to the right and by inserting the word "Confidential".	
	Please follow the instructions for filling in the template: ⇒ Leave the last column empty ⇒ Please fill in your comment in the relevant row.	
Please send the completed template to CP-19-004@eiopa.europa.eu, in MSExcel Format, (our IT tool does not allow processing of any other formats).		
Document reference	Paragraph or other detailed reference	Comment
EIOPA-BoS-019-300	1.5.1. Principle of proportionality	<p>Article 35(6), which enables NCAs to grant exemptions from quarterly reporting to certain undertakings, is one of the crucial proportionality measures of the Solvency II Directive. Quarterly reporting represents a considerable burden for captives and other small undertakings, especially for the Q4 submissions which fall during the very labour-intensive year-end reporting period.</p> <p>In recognition of this, many NCAs have granted exemptions from quarterly reporting to captives and other small- and medium-sized undertakings. Over half of the undertakings in France, Luxembourg and the UK were granted limitations or exemptions in Q1 2018. This is a clear and proper application of proportionality as intended in the Solvency II Directive and is welcomed by the industry.</p> <p>On the other hand, some NCAs have granted zero exemptions to date. The wide divergence among NCAs in the application of proportionality through Article 35(6) is a clearly undesirable outcome. An amendment of Article 35 is therefore required to ensure that the principle of proportionality is applied consistently by NCAs across the market.</p> <p>In recognition of the following factors relating to the specific nature of captives:</p> <ul style="list-style-type: none"> - Per Recital 16 of the Solvency II Directive, the main objective of re/insurance regulation and supervision is the adequate protection of policyholders and beneficiaries; - In the case of captives, the policyholder is both the owner of the captive and the entity that funds the captive, therefore the primary objective of policyholder protection is of limited relevance; - Recital 21 of the Solvency II Directive states that the Directive should take account of the specific nature of captives and proportionality should be applied to reflect the nature, scale and complexity of their business; <p>and in recognition of the following relating to the importance of scale as regards the application of proportionality;</p> <ul style="list-style-type: none"> - Recital 19 of the Solvency II Directive states that the Directive should not be too burdensome for small- and medium-sized undertakings, and the proper application of proportionality is key to achieving this objective; <p>we propose the following amendment to Article 35: All undertakings which meet the definition of a captive under Article 13 of the Solvency II Directive (i.e. which have no third party risk) and which have annual gross written premium of less than 50 million euro (meeting the European Commission definition of an SME*) are automatically exempted from quarterly reporting. *In order to meet the definition of an SME, the captive would also be required to employ fewer than 250 persons; this is the case for all captives.</p> <p>In order to ensure a harmonised approach to the supervision of SME-sized captives across the EU, the application of Article 35 can no longer be left solely to the discretion of each NCA. The proposed amendment, which takes into consideration the specific risk profile of captives, will help to ease the supervisory reporting burden for captives and to allow industrial and financial groups in the EU to continue to rely on captives as a valuable and cost-effective tool for effectively and efficiently managing risk.</p>

public

	<p>1.5.5. Reporting of specific business models: Captives insurance and captive reinsurance undertakings</p>	<p>Following Art. 35 6., 7. and 8. all captives should be exempted from a quarterly reporting, incl. Q4 reporting. In the justification of the proposal to introduce no specific simplifications to quarterly reporting for captives, it is stated that the application of Article 35 should allow for appropriate proportionality. As outlined in our response under 1.5.1, certain NCAs have chosen to ignore Article 35 and have not granted exemptions from quarterly reporting to any undertaking. Therefore, captives established in the countries of those NCAs are not benefitting from the proportionality for captives that was originally intended in the Solvency II Captives that meet the definition under Article 13 of the Solvency II Directive (i.e. which have no third party risk) are of a unique nature from a supervisory perspective because there is no end-consumer and limited policyholder protection to consider; the policyholder is both the owner of the captive and the entity that funds the captive. Furthermore, captives which meet the European Commission definition of an SME (i.e. which employ fewer than 250 persons and have annual gross written premium of less than 50 million euro) are of such a scale that they have no systemic impact or threat to financial stability. Captives that meet these two criteria are clearly of immaterial significance to the primary objectives of re/insurance regulation and supervision as laid out in Recital 16 of the Solvency II Directive. However, the impact to these captives, in terms of costs and regulatory burden, from the non-application of proportionality to quarterly reporting as intended through Article 35, is decidedly material. Granting an automatic exemption from quarterly reporting to captives meeting the above two criteria would be an appropriate risk-based application of proportionality as intended in the Solvency II Directive. It would ensure a harmonised approach to the supervision of SME-sized captives across the EU and would help to ease the supervisory reporting burden for captives and to allow industrial and financial groups in the EU to continue to rely on captives as a valuable and cost-effective tool for effectively and efficiently managing risk.</p>	<p>public</p>
	<p>1.5.5. Reporting of specific business models: Captives insurance and captive reinsurance undertakings</p>	<p>CICA welcomes the general view of EIOPA to simplify, reduce or delete requirements which are not essential to achieve the targets of the Solvency II regime. We appreciate that the Principle of Proportionality shall be recognized and followed in the best interest of all stakeholders with the consequence for SME insurers and captives that non-essential information will no longer be provided and time and cost will be saved. Nevertheless, we strongly believe that the remaining volume of reporting can be reduced or deleted due to the fact that captives -based on nature, scale and complexity- play a harmless role which is not posing a threat for the market or influencing the targets of Sol. II. Re: Proposal for annual reporting: elimination of S.02.02; reporting only by LoB, not by currency, of S.16.01 and S.19.01; specific S.27.01 for captives:</p> <p>We welcome the removal of requirements for captives to report by currency in S.16.01, S.19.01 and S.02.02. We also welcome the development of a specific S.27.01 for captives with only table 1 of the current template.</p> <p>As outlined in comments responding to the proposals in the template-by-template QRT review, we would propose further exemptions for captives which meet the definition under Article 13 of the Solvency II Directive (i.e. which have no third party risk) from the following templates which represent the most onerous and costly to report:</p> <p>S.04.03.03 Activity by country – location of risk (new template) S.14 – Non-life product-by-product information (new template) S.19.01 – Non-life insurance claims S.20.01 – Development of the distribution of the claims incurred S.21.01 – Loss distribution risk profile S.29.05, S.29.06 – Variation analysis (new templates)</p> <p>The rationale for these exemptions is outlined in our comments responding to the proposals in the template-by-template QRT review.</p>	<p>public</p>
<p>EIOPA-BoS-19-305</p>	<p>S.04.01 - Activity by country</p>	<p>Re: Proposed new template S.04.03.02:Re: Proposed new template S.04.03.02:</p> <p>While the proposal to consolidate the reporting of cross-border business into one set of templates is welcomed, the additional requirements of the proposed new templates are very onerous and would be very challenging for captives and other small undertakings to report.</p> <p>The proposed removal of any threshold for cross-border reporting, considering the very onerous additional requirements of the proposed new templates, appears to be a clear contravention of Article 29 of the Solvency II Directive, which states that the requirements of the Directive, including the delegated acts and regulatory and implementing technical standards, shall be proportionately applied, in particular in relation to small undertakings. It also goes against Recital 19 of the Directive, which states that the Directive should not be too burdensome for small- and medium-sized undertakings.</p> <p>While we understand the need for NCAs to improve the information provided on cross-border business, there must be an explicit consideration of the materiality of the information for each undertaking, by comparing the benefits to the NCA of receiving the information versus the costs to the undertaking of reporting it.</p> <p>Regarding proposed new template S.04.03.02: For undertakings meeting the European Commission definition of an SME (i.e. which employ fewer than 250 persons and have annual gross written premium of less than 50 million euro), we would propose the continuation of the 90% thresholds for cross-border reporting that are currently applicable in S.04.01, S.05.02, S.12.02 and S.17.02. This is an appropriate application of proportionality in line with Article 29 of the Solvency II Directive.</p>	<p>public</p>

	S.06.02 – List of Assets	<p>This template should be simplified as it is time consuming and represents a costly exercise to produce it. A simplified S.06.02 template with only one tab and the following columns seem sufficient: C0010, C0040, C0190, C0200, C0240, C0270, C0280, C0290, C0300, C0060, C0090, C0100, C0130, C0140, C0150, C0160, C00170, C00180 and C390.</p>	public
	S.06.03 - Collective investment undertakings - look-through approach	<p>The production of this template is always a very time-consuming and costly exercise. Given it is identified by EIOPA as being a non-core template (both quarterly and annually), and in recognition of the considerable costs involved in its production, we believe there should be further application of proportionality. While we welcome the proposal to increase the quarterly threshold from 30% to 50%, we believe that this threshold should also be extended to the annual reporting. Furthermore, we believe that captives meeting the European Commission SME definition should be automatically exempted from S.06.03 as it is overly burdensome for small- and medium-sized undertakings, particularly in the case of captives given their limited risk profile as outlined in comments above.</p>	public
	S.19.01 - Non-life insurance claims	<p>The purpose of the S.19.01 template is to provide the NCAs with additional information on the estimated cost of claims and how this estimate develops over time. This is identified by EIOPA as being a non-core template; accordingly, the principle of proportionality should be applied to undertakings in accordance with their risk profile.</p> <p>The specific nature of the risk profile of captives is such that the primary supervisory concerns of end-consumer and policyholder protection are of very limited relevance; the policyholder is both the owner of the captive and the entity that funds the captive. Furthermore, this risk profile also ensures that captives will have no systemic impact or threat to financial stability. In recognition of these facts, and of the typical limitation on resources available to captives when compared to commercial insurers, we would argue there is a strong case for exemption from any non-core templates that are generally accepted as being very onerous to report.</p> <p>It is widely held that S.19.01, S.20.01 and S.21.01 (all of which are identified by EIOPA as non-core) are among the most time-consuming and costly templates to report, due to the level of granularity required and the need to manually manipulate and allocate data from claims databases in order to fill the templates correctly.</p> <p>Given the specific nature of the risk profile of captives, which necessarily means that there is little to no risk in terms of the primary objectives of re/insurance regulation and supervision, we would argue that there is sufficient data on the cost of claims and best estimates already reported in templates S.05.01, S.12.01, S.13.01, S.17.01 and S.18.01 to enable NCAs to adequately assess the underwriting, claims and reserving risks of captives.</p> <p>Accordingly, we would propose that any undertaking which meets the definition of a captive under Article 13 of the Solvency II Directive (i.e. which have no third party risk) should be exempted from S.19.01. Recognising the significant costs that are involved in reporting this template, and the specific risk profile of captives as discussed above, this is an appropriate application of proportionality in line with Article 29 of the Solvency II Directive, which takes into account the specific nature of captives, as intended per Recital 21 of the Directive</p>	public
	S.20.01 - Development of the distribution of the claims incurred	<p>It is widely held that S.19.01, S.20.01 and S.21.01 (all of which are identified by EIOPA as non-core) are among the most time-consuming and costly templates to report, due to the level of granularity required and the need to manually manipulate and allocate data from claims databases in order to fill the templates correctly.</p> <p>Using the same rationale as outlined in our response under S.19.01, we would propose that any undertaking which meets the definition of a captive under Article 13 of the Solvency II Directive (i.e. which have no third party risk) should be exempted from S.20.01.</p>	public
	S.21.01 – Loss distribution risk profile	<p>It is widely held that S.19.01, S.20.01 and S.21.01 (all of which are identified by EIOPA as non-core) are among the most time-consuming and costly templates to report, due to the level of granularity required and the need to manually manipulate and allocate data from claims databases in order to fill the templates correctly.</p>	public
	S.28.01 - Minimum Capital Requirement -Both life and non-life insurance activity	<p>This template should be simplified as it is time consuming and represents a costly exercise to produce it. Suggest that information by totals and not by country in the natural catastrophe and the health similar to non life catastrophe scenarios should be enough. Information of the capital charges by scenarios is repeated in the summary and in each scenario.</p>	public

	S.29.01 to S.29.04	<p>These templates are very labour- and cost-intensive to report and place considerable burden on captives and other small undertakings during the year-end reporting period. Although the new proposed templates S.29.05 and S.29.06 may provide a better alignment for commercial insurers between supervisory needs and information used internally by undertakings, they would still require considerable time and effort to report, particularly for smaller undertakings.</p> <p>Given the limited risk profile of captives in terms of the primary regulatory and supervisory objective of the protection of policyholders and beneficiaries, we would argue that in their case there is no need for NCAs to obtain such granular data on the drivers of the variation in excess of assets over liabilities. In the event of any large year-on-year variations, an NCA can always request additional data from an undertaking. But the automatic reporting of such a detailed variation analysis is not proportionate to the typical risk profile of a captive.</p> <p>Information on best estimates ceded and net receivables can be found in template S.02.01 and detail by retrocessionaire does not seem proportionate for captives and small reinsurance companies. Suggest that this QRT is not required on an annual basis for captives.</p>	public
	New templates - Cyber risk	While we understand the reasons for capturing this new information, we would suggest that this is a non-core template and that, accordingly, proportionality should be applied through a risk-based threshold. The information should only be required where meaningful premium volumes are in place.	public
	New templates - 'S.14' template for non-life	<p>The rationale for the development of this new template is to provide NCAs with enhanced insights into the non-life products that are available on the market. Captives by their nature only cover the risks of the group to which they belong; accordingly, any non-life 'products' that they provide are not available on the market.</p> <p>There is therefore a clear rationale that this proposed new template should not apply in the case of captives. This is not an essential data collection for the supervisors - may be requested where some weird circumstances within the relation between an insurer and the market are suspected</p>	public
EIOPA-BoS-19-309	4.5 – 4.5.1	CICA welcomes to propose the deletion of information to third parties which are not policyholders of the captive as the main target of the captive is to insure the parent company.	public
	4.5.3. Gaps identified in the SFCR information	<p>Whilst we understand that the proposal for additional sensitivity analysis is a result of discussions with various users of the reports, we are of the view that this requirement is of no further benefit to the users of SFCR reports for captive undertakings. For captives that meet the definition under Article 13 of the Solvency II Directive (i.e. which have no third party risk) the proposed analysis and stress testing would create an additional burden with little or no benefit. Any movements in own capital are only relevant to the parent entity and policyholders which are all part of the same group and would not add any further value to the SFCR reports. Should the information be of relevance to the NCA, there is always the option for NCA to request an additional information on an ad hoc basis.</p> <p>We suggest that Captives are exempt from any sensitivity analysis. Board -through the ORSA process- should retain responsibility for any stress testing/sensitivity analysis of the Company's risks.</p> <p>In the case of captives there is no added value for the supervisor - based on exemption of quarterly reporting we agree to propose the following: if unexpected and/or sudden events or circumstances influence the captive`s conduct with a major impact on the SCR /MCR the companies are required to report without hesitation and with a comment how to remedy the situation</p>	public
	4.5.4. Availability of the SFCR	We would continue to stress that the majority of captives (and some smaller (re)insurance undertakings) do not own a website, nor is there any reason or need to produce a website - the number of clicks on existing websites is minimal, close to zero - hence, the option should continue for the information to be available upon request for such undertakings that do not operate their own website.	public
	4.5.5. Audit of the SFCR information	<p>Keep the legislation as it is – no audit requirement in the Solvency II Directive >" EIOPA: In fact, EIOPA believes that auditing should be about transparency and accuracy of the information and therefore those values should not be subject to proportionality principle" < The PoP refers in principle (see the Lisbon Treaty) to the burden of work, time and cost. It is not a question of values such as transparency and accuracy -EIOPA´s view is related onto the wrong side of the market. There might be a wish to have more comparability but this has nothing to do with proportionality - the terms transparency and accuracy have to be fulfilled and provided by the structure of the SFCR and some templates/QRTs - captives should be exempted completely because of the additional cost which are not in an economic relation to the added value.</p> <p>We would propose to remove captive undertakings from the scope of the requirement for an external audit of the Solvency II balance sheet. We have seen from experience that this generates significant additional costs and is a very time-consuming process during the already very labour-intensive year-end reporting period. Given that a captive's Solvency II balance sheet and SFCR are of limited relevance to its policyholders or any other stakeholders (e.g. cedants to captives already receive the necessary assurance from the captives' audited financial statements), we would argue that the audit requirement would bring very little value to stakeholders but considerable strain to captive undertakings.</p> <p>In the event that this auditing requirement is introduced, we would urge that NCAs should be restricted in their ability to request additional audit requirements. As highlighted during the EIOPA review, all stakeholders deserve the same level of assurance about the completeness and correctness of the information disclosed. When NCAs apply different requirements, this goes against the harmonisation of the market and does not respect the principle of proportionality. If there is an audit requirement introduced, it should be prescriptive in being limited to the Solvency II balance sheet alone to ensure consistency across all Member States.</p> <p>The comment of external audit firms on this question should be disregarded due to bias and one-sidedness.</p>	public