



2021/0295(COD)

1.8.2022

AMENDMENT 597- 804

Draft report

Markus Ferber

(PE732.668v01-00)

Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/138/EC as regards proportionality, quality of supervision, reporting, long-term guarantee measures, macro-prudential tools, sustainability risks, group and cross-border supervision

Proposal for a directive

(COM(2021)0581 – C9-0367/2021 – 2021/0295(COD))

Amendment 597

Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 39 a (new)

Directive 2009/138/EC

Article 78 – point 3 a (new)

Text proposed by the Commission

Amendment

(39a) in Article 78 the following point is added:

‘(43a) quantitative and qualitative estimates of 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;’

Or. en

Amendment 598

Paul Tang

Proposal for a directive

Article 1 – paragraph 1 – point 39 a (new)

Directive 2009/138/EC

Article 78 – point 3 a (new)

Text proposed by the Commission

Amendment

(39a) in Article 78, the following point is added:

‘(43a) quantitative and qualitative estimates of 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;’

Or. en

Justification

Potential losses due to sustainability risks, in particular climate-related risks, should be considered when calculating insurance technical provisions.

Amendment 599

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 39 a (new)

Directive 2009/138/EC

Article 78 – point 3 a (new)

Text proposed by the Commission

Amendment

(39a) in Article 78 the following point is added:

‘(43a) quantitative and qualitative estimates of 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;

Or. en

Amendment 600

Chris MacManus

Proposal for a directive

Article 1 – paragraph 1 – point 39 a (new)

Directive 2009/138/EC

Article 78 – point 3 a (new)

Text proposed by the Commission

Amendment

(39a) in Article 78, the following point is added:

‘(43a) quantitative and qualitative estimates of 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.'

Or. en

Justification

Potential losses due to sustainability risks, in particular climate-related risks should be considered when calculating insurance technical provisions.

Amendment 601

Eero Heinäluoma, Paul Tang, Jonás Fernández, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 40 – point a – point ii

Directive 2009/138/EC

Article 86 – paragraph 1 – point b – point i

Text proposed by the Commission

(i) the formula for the extrapolation referred to in Article 77a(1), including the parameters that determine the convergence speed of the extrapolation;

Amendment

(i) the formula for the extrapolation referred to in Article 77a(1), including the parameters that determine the convergence speed of the extrapolation ***in line with the market consistent valuation principle.***

Or. en

Amendment 602

Eero Heinäluoma, Paul Tang, Jonás Fernández, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 40 – point a – point ii a (new)

Directive 2009/138/EC

Article 86 – paragraph 1 – point d

Present text

(d) the methods and assumptions to be used in the calculation of the risk margin including the determination of the amount of eligible own funds necessary to support

Amendment

(iia) in Article 86, paragraph 1, point (d) is replaced by the following:

"(d) the methods and assumptions to be used in the calculation of the risk margin including the determination of the amount of eligible own funds necessary to support

the insurance and reinsurance obligations and the calibration of the cost-of-capital rate, as referred to in Article 77(5);

the insurance and reinsurance obligations and the calibration of the cost-of-capital rate, **which should not be lower than 5%**, as referred to in Article 77(5);

”

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0138-20210630>)

Amendment 603

Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point 40 – point a – point iii

Directive 2009/138/EC

Article 86 – paragraph 1 – point i – point iii

Text proposed by the Commission

Amendment

(iii) for each relevant asset class, the percentage of the spread that represents the portion attributable to a realistic assessment of expected losses or unexpected credit or other risks of the assets as referred to in Article 77d(3);

deleted

Or. en

Amendment 604

Fabio Massimo Castaldo

Proposal for a directive

Article 1 – paragraph 1 – point 40 – point a – point iii

Directive 2009/138/EC

Article 86 – paragraph 1 – point i – point iii

Text proposed by the Commission

Amendment

(iii) for each relevant asset class, the percentage of the spread that represents the portion attributable to a realistic assessment of expected losses or unexpected credit or other risks of the assets as referred to in Article 77d(3);

deleted

Amendment 605
Carlo Calenda

Proposal for a directive
Article 1 – paragraph 1 – point 40 – point a – point iii
Directive 2009/138/EC
Article 86 – paragraph 1 – point i – point iii

Text proposed by the Commission

Amendment

(iii) for each relevant asset class, the percentage of the spread that represents the portion attributable to a realistic assessment of expected losses or unexpected credit or other risks of the assets as referred to in Article 77d(3);

deleted

(an)

Amendment 606
Raffaele Fitto

Proposal for a directive
Article 1 – paragraph 1 – point 40 – point a – point iii
Directive 2009/138/EC
Article 86 – paragraph 1 – point i – point iii

Text proposed by the Commission

Amendment

(iii) for each relevant asset class, the percentage of the spread that represents the portion attributable to a realistic assessment of expected losses or unexpected credit or other risks of the assets as referred to in Article 77d(3);

deleted

Amendment 607
Elisabetta Gualmini

Proposal for a directive

Article 1 – paragraph 1 – point 40 – point a – point iii

Directive 2009/138/EC

Article 86 – paragraph 1 – point i – point iii

Text proposed by the Commission

(iii) for each relevant asset class, the percentage of the spread that represents the portion attributable to a realistic assessment of expected losses or unexpected credit or other risks of the assets as referred to in Article 77d(3);

Amendment

(iii) for each relevant asset class, the percentage of the **long-term average** spread that represents the portion attributable to a realistic assessment of expected losses or unexpected credit or other risks of the assets as referred to in Article 77d(3), **and that is consistent with the definition of the fundamental spread referred to in Article 77c(2)**;

Or. en

Amendment 608

Elisabetta Gualmini

Proposal for a directive

Article 1 – paragraph 1 – point 41 – point a

Directive 2009/138/EC

Article 92 – paragraph 1a – subparagraph 1

Text proposed by the Commission

1a. The Commission shall adopt delegated acts in accordance with Article 301a specifying the treatment of participations, within the meaning of Article 212(2), third subparagraph, in financial and credit institutions with respect to the determination of own funds, including approaches to deductions from the basic own funds of an insurance or reinsurance undertaking of material participations in credit and financial institutions.

Amendment

1a. The Commission shall adopt delegated acts in accordance with Article 301a specifying the treatment of participations, within the meaning of Article 212(2), third subparagraph, in financial and credit institutions with respect to the determination of own funds, including:

(i) approaches to deductions from the basic own funds of an insurance or reinsurance undertaking of material participations in credit and financial institutions;

(ii) the market risk module to be applied by insurance and reinsurance undertakings to the participations in credit and financial institutions not deducted pursuant to this Article.

Or. en

Amendment 609

Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point 41 – point a

Directive 2009/138/EC

Article 92 – paragraph 1a – subparagraph 1

Text proposed by the Commission

1a. The Commission shall adopt delegated acts in accordance with Article 301a specifying the treatment of participations, within the meaning of Article 212(2), third subparagraph, in financial and credit institutions with respect to the determination of own funds, including approaches to deductions from the basic own funds of an insurance or reinsurance undertaking of material participations in credit and financial institutions.

Amendment

1a. The Commission shall adopt delegated acts in accordance with Article 301a specifying the treatment of participations, within the meaning of Article 212(2), third subparagraph, in financial and credit institutions with respect to the determination of own funds, including:

(i) approaches to deductions from the basic own funds of an insurance or reinsurance undertaking of material participations in credit and financial institutions;

(ii) the market risk module to be applied by insurance and reinsurance undertakings and groups to the participations in credit and financial institutions pursuant to this Article.

Or. en

Amendment 610

Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive

Article 1 – paragraph 1 – point 41 – point a

Directive (EU) 138/2009

Article 92 – paragraph 1a – subparagraph 1

Text proposed by the Commission

1a. The Commission shall adopt delegated acts in accordance with Article 301a specifying the treatment of participations, within the meaning of Article 212(2), third subparagraph, in financial and credit institutions with respect to the determination of own funds, including approaches to deductions from the basic own funds of an insurance or reinsurance undertaking of material participations in credit and financial institutions.

Amendment

1a. The Commission shall adopt delegated acts in accordance with Article 301a specifying the treatment of participations, within the meaning of Article 212(2), third subparagraph, in financial and credit institutions with respect to the determination of own funds, including:

(i) approaches to deductions from the basic own funds of an insurance or reinsurance undertaking of material participations in credit and financial institutions;

(ii) the market risk module to be applied by insurance and reinsurance undertakings and groups to the participations in credit and financial institutions pursuant to this Article.

Or. en

Amendment 611

Fabio Massimo Castaldo

Proposal for a directive

Article 1 – paragraph 1 – point 41 – point a

Directive 2009/138/EC

Article 92 – paragraph 1a – subparagraph 1

Text proposed by the Commission

1a. The Commission shall adopt delegated acts in accordance with Article 301a specifying the treatment of participations, within the meaning of

Amendment

1a. The Commission shall adopt delegated acts in accordance with Article 301a specifying the treatment of participations, within the meaning of

Article 212(2), third subparagraph, in financial and credit institutions with respect to the determination of own funds, including approaches to deductions from the basic own funds of an insurance or reinsurance undertaking of material participations in credit and financial institutions.

Article 212(2), third subparagraph, in financial and credit institutions with respect to the determination of own funds, including:

(i) approaches to deductions from the basic own funds of an insurance or reinsurance undertaking of material participations in credit and financial institutions;

(ii) the market risk module to be applied by insurance and reinsurance undertakings and groups to the participations in credit and financial institutions pursuant to this Article.

Or. en

Amendment 612

Carlo Calenda

Proposal for a directive

Article 1 – paragraph 1 – point 41 – point a

Directive 2009/138/EC

Article 92 – paragraph 1a – subparagraph 1

Text proposed by the Commission

1a. The Commission shall adopt delegated acts in accordance with Article 301a specifying the treatment of participations, within the meaning of Article 212(2), third subparagraph, in financial and credit institutions with respect to the determination of own funds, including approaches to deductions from the basic own funds of an insurance or reinsurance undertaking of material participations in credit and financial institutions.

Amendment

1a. The Commission shall adopt delegated acts in accordance with Article 301a specifying the treatment of participations, within the meaning of Article 212(2), third subparagraph, in financial and credit institutions with respect to the determination of own funds, including:

(i) approaches to deductions from the basic own funds of an insurance or reinsurance undertaking of material participations in

credit and financial institutions;

(ii) the risk-weighted adjustment to be applied to non-deducted participations pursuant to this Article.

Or. en

Amendment 613
Elisabetta Gualmini

Proposal for a directive

Article 1 – paragraph 1 – point 41 – point a

Directive 2009/138/EC

Article 92 – paragraph 1a – subparagraph 2 – point (i)

Text proposed by the Commission

(i) the credit or financial institution and the insurance or reinsurance undertaking belong to the same group, as defined in Article 212, to which group supervision applies in accordance with Article 213(2), points (a), (b) and (c), and the related credit or financial institution is not subject to the deduction referred to in Article **228(6)**;

Amendment

(i) the credit or financial institution and the insurance or reinsurance undertaking belong to the same group, as defined in Article 212, to which group supervision applies in accordance with Article 213(2), points (a), (b) and (c), and the related credit or financial institution is not subject to the deduction referred to in Article **228(5)**;

Or. en

Amendment 614
Elisabetta Gualmini

Proposal for a directive

Article 1 – paragraph 1 – point 41 – point a a (new)

Directive 2009/138/EC

Article 92 – paragraph 1b (new)

Text proposed by the Commission

Amendment

(aa) the following paragraph is inserted:

‘1b. Notwithstanding paragraph 1a, the insurance and reinsurance undertaking shall be allowed not to deduct its

participation in the credit or financial institution, provided that all the following conditions are met:

(i) the participation represents less than 20% of the capital or voting rights of the credit or financial institution;

(ii) the credit or financial institution is an entity whose transferable securities are admitted to trading on a regulated market.’

Or. en

Amendment 615
Aurore Lalucq

Proposal for a directive
Article 1 – paragraph 1 – point 43 a (new)
Directive 2009/138/EC
Article 101 – paragraph 4 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

(43a) in paragraph 4 of Article 101 the following subparagraph is added:

‘Market risk as referred to in point (d) of the first subparagraph shall include sustainability risks stemming from the current or prospective impacts of climate-related factors on the undertaking, its clients or invested assets, specifically covering risks related to the fossil fuel sector. Climate-related risks include both physical risk and transition risk.’

Or. en

Amendment 616
Paul Tang

Proposal for a directive
Article 1 – paragraph 1 – point 43 a (new)

Directive 2009/138/EC
Article 101 – paragraph 4 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

(43a) in paragraph 4 of Article 101 the following subparagraph is added:

‘Market risk as referred to in point (d) of the first subparagraph shall include sustainability risks stemming from the current or prospective impacts of climate-related factors on the undertaking, its clients or invested assets, specifically covering risks related to the fossil fuel sector. Such risks can stem from a high prospect of assets becoming stranded due to the global transition away from fossil fuels, or from an increase risks of climate-related events such as forest fires or floods. Climate-related risks shall be deemed to be especially high when the undertaking fails to adhere to its transition plan as defined by Article 44b (new).’

Or. en

Amendment 617
Chris MacManus

Proposal for a directive
Article 1 – paragraph 1 – point 43 a (new)
Directive 2009/138/EC
Article 101 – paragraph 4 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

(43a) in paragraph 4 of Article 101, the following subparagraph is added:

‘Market risk referred to in point (d) of the first subparagraph shall include sustainability risks stemming from the current or prospective impacts of climate-related factors on the undertaking, its clients or invested assets, specifically covering risks related to the fossil fuel sector. Climate-related risks include both

physical risk and transition risk.’

Or. en

Justification

Financing the fossil fuel sector increases the macro-prudential exposure to physical and disruption risk, through accelerating climate change. Individual institutions providing financing are also exposed to transition risks at the micro-prudential level. These risks are not considered in the existing capital requirements.

Amendment 618

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 43 a (new)

Directive 2009/138/EC

Article 105 – paragraph 5 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

(43a) in paragraph 5 of Article 105 the following subparagraph is inserted:

‘The market risk shall also reflect the sustainability risks stemming from climate change. It shall include the impact of such risk on the undertaking, its customers and on the assets the undertaking has invested in. Climate-related risk shall include both physical and transition risks.’

Or. en

Amendment 619

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 43 b (new)

Directive 2009/138/EC

Article 105 – paragraph 5 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

(43b) in paragraph 5 of Article 105 the following subparagraph is added:

‘For the purpose of calculating the sensitivity of the values of assets referred to in points b) and d), the undertaking shall consider any exposure to fossil fuel sectors as an exposure to the most volatile asset of each category.’

Or. en

Amendment 620

Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 43 b (new)

Directive 2009/138/EC

Article 105 – paragraph 5 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

(43b) in paragraph 5 of Article 105 the following subparagraph is added:

‘Equity and spread risk sub-modules referred to in points (a) and (d) of subparagraph 2 shall consider climate-related financial risks associated with fossil fuel sector exposures.’

Or. en

Amendment 621

Paul Tang

Proposal for a directive

Article 1 – paragraph 1 – point 43 b (new)

Directive 2009/138/EC

Article 105 – paragraph 5 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

(43b) in paragraph 5 of Article 105 the following subparagraph is added:

‘Equity and spread risk sub-modules referred to in points (a) and (d) of subparagraph 2 shall consider climate-related financial risks associated with fossil fuel sector exposures and exposures to economic activities that significantly harm environmental objectives as defined in Article 17 of Regulation (EU) 2019/852. Climate-related risks shall be deemed to be especially high when the undertaking fails to adhere to its transition plan as defined by Article 44b (new).’

Or. en

Justification

Climate risks are increasingly important risks for insurers. They shall adhere to their transition plans to reduce those risks or hold additional capital in reserve in order to avoid losses for policy holders.

Amendment 622
Chris MacManus

Proposal for a directive
Article 1 – paragraph 1 – point 43 b (new)
Directive 2009/138/EC
Article 105 – paragraph 5 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

(43b) in paragraph 5 of Article 105 the following subparagraph is added:

‘Equity and spread risk sub-modules referred to in points (a) and (d) of subparagraph 2 shall consider climate-related financial risks associated with fossil fuel sector exposures.’

Amendment 623

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 43 b (new)

Directive 2009/138/EC

Article 105 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

(43b) in Article 105 the following paragraph is added:

'6a. The Commission is empowered to adopt a Delegated Act, in accordance with Article 301a, to reflect the risk posed by crypto-assets in the market risk sub module referred to in paragraph 5 and in the counterparty risk sub-module referred to in paragraph 6.'

Or. en

Amendment 624

Raffaele Fitto

Proposal for a directive

Article 1 – paragraph 1 – point 43 a (new)

Directive 2009/138/EC

Article 105 a (new)

Text proposed by the Commission

Amendment

(43a) the following Article is inserted:

'Article 105a

Long-term equity investments

1. A sub-set of equity investments may be treated as long-term equity investments if the insurance or reinsurance undertaking demonstrates, to the satisfaction of the supervisory authority, that all of the

following conditions are met:

(a) the sub-set of equity investments is clearly identified;

(b) the sub-set of equity investment is included within a portfolio of assets which is assigned to cover the best estimate of a portfolio of insurance or reinsurance obligations corresponding to one or several clearly identified businesses, and the undertaking maintains that assignment;

(c) the assigned portfolio of assets referred to in point (b) are identified and managed separately from the other activities of the undertaking;

(e) a policy for long term investment management is set up for each long-term equity portfolio and reflects undertaking's commitment to hold the global exposure to equity in the sub-set of equity investment for a period that exceeds 5 years on average. The AMSB of the undertaking has signed off these investment management policies and these policies are frequently reviewed against the actual management of the portfolios.

(f) the sub-set of equity investments consists only of equities that are listed in countries that are member of the OECD or of unlisted equities of companies that have their head offices in countries that are member of the OECD;

(g) where undertakings can demonstrate that either particular homogeneous risk groups of the life insurance and reinsurance liabilities belongs to categories I or II as defined for the purpose of the calculation of the VA and the Macaulay duration of the liabilities in this HRG exceeds 5 years or a sufficient liquidity buffer is in place for the portfolio of non-life insurance and reinsurance liabilities and the assigned portfolio of assets;

(h) the risk management, asset-liability management and investment policies of the insurance or reinsurance undertaking reflects the undertaking's intention to hold the sub-set of equity investments for a period that is compatible with the requirement of point (e) and its ability to meet the requirement of point (g). Those elements are reported in the ORSA of the undertakings.

(i) the sub-set of equity investments shall be properly diversified in such a way as to avoid excessive reliance on any particular issuer or group of undertakings and excessive accumulation of risk in the portfolio as a whole.

2. The proportion of equity backing life technical provisions that is assigned to the long-term equity investment category does not exceed the proportion of life technical provisions compliant with the criteria specified in paragraph 1 on the total life technical provisions of the insurance or reinsurance undertaking;

3. Where equities are held within collective investment undertakings or within alternative investment funds the conditions laid down in paragraph 1 maybe assessed at the level of the funds and not of the underlying assets held within those funds.

4. Insurance or reinsurance undertakings that treat a sub-set of equity investments as long-term equity investments in accordance with paragraph 1 shall not revert to an approach that does not include long-term equity investments. Where an insurance or reinsurance undertaking that treats a sub-set of equity investments as long-term equity investments is no longer able to comply with the conditions set out in paragraph 1, it shall immediately inform the supervisory authority and shall cease to apply Articles 169(1)(b), (2)(b), (3)(b) and (4)(b) to any of its equity investments for a period of 36 months;

5. Participations shall be excluded from the sub-set of equity investments.

In addition to the proposed criteria EIOPA advises that, in cases where the allocation of equity to LTE has a material impact on the overall SCR of the undertaking, enhanced reporting requirements should apply (e.g. through the RSR) in addition to the regular reporting through ORSA established under criterion 1(h).

Such requirements should focus on the assessment of the undertaking's ability to effectively hold equity in the long term from a risk management perspective, as well as a sensitivity analysis of the impact of LTE on its solvency position.

The capital requirement for long-term equity investments shall be equal to the loss in the basic own funds that would result from an instantaneous decrease equal to 22% in the value of investments that are treated as long-term equity.'

Or. en

Amendment 625
Fabio Massimo Castaldo

Proposal for a directive
Article 1 – paragraph 1 – point 43 a (new)
Directive 2009/138/EC
Article 105 a (new)

Text proposed by the Commission

Amendment

(43a) the following Article is inserted:

'Article 105a

Long-term equity investments

1. A sub-set of equity investments may be treated as long-term equity investments if the insurance or reinsurance undertaking demonstrates, to the satisfaction of the supervisory authority, that all of the

following conditions are met:

(a) the sub-set of equity investments is clearly identified;

(b) the sub-set of equity investment is included within a portfolio of assets which is assigned to cover the best estimate of a portfolio of insurance or reinsurance obligations corresponding to one or several clearly identified businesses, and the undertaking maintains that assignment;

(c) the assigned portfolio of assets referred to in point (b) are identified and managed separately from the other activities of the undertaking;

(d) a policy for long term investment management is set up for each long-term equity portfolio and reflects undertaking's commitment to hold the global exposure to equity in the sub-set of equity investment for a period that exceeds 5 years on average. The AMSB of the undertaking has signed off these investment management policies and these policies are frequently reviewed against the actual management of the portfolios;

(e) the sub-set of equity investments consists only of equities that are listed in countries that are member of the OECD or of unlisted equities of companies that have their head offices in countries that are member of the OECD;

(f) where undertakings can demonstrate that either particular homogeneous risk groups of the life insurance and reinsurance liabilities belongs to categories I or II as defined for the purpose of the calculation of the VA and the Macaulay duration of the liabilities in this HRG exceeds 5 years or a sufficient liquidity buffer is in place for the portfolio of non-life insurance and reinsurance liabilities and the assigned portfolio of assets;

(g) the risk management, asset-liability management and investment policies of the insurance or reinsurance undertaking reflects the undertaking's intention to hold the sub-set of equity investments for a period that is compatible with the requirement of point (e) and its ability to meet the requirement of point (g). Those elements are reported in the ORSA of the undertakings;

(h) the sub-set of equity investments shall be properly diversified in such a way as to avoid excessive reliance on any particular issuer or group of undertakings and excessive accumulation of risk in the portfolio as a whole.

2. The proportion of equity backing life technical provisions that is assigned to the long-term equity investment category does not exceed the proportion of life technical provisions compliant with the criteria specified in paragraph 1 on the total life technical provisions of the insurance or reinsurance undertaking.

3. Where equities are held within collective investment undertakings or within alternative investment funds the conditions laid down in paragraph 1 maybe assessed at the level of the funds and not of the underlying assets held within those funds.

4. Insurance or reinsurance undertakings that treat a sub-set of equity investments as long-term equity investments in accordance with paragraph 1 shall not revert to an approach that does not include long-term equity investments. Where an insurance or reinsurance undertaking that treats a sub-set of equity investments as long-term equity investments is no longer able to comply with the conditions set out in paragraph 1, it shall immediately inform the supervisory authority and shall cease to apply Articles 169(1)(b), (2)(b), (3)(b) and (4)(b) to any of its equity investments for a period of 36 months.

5. Participations shall be excluded from the sub-set of equity investments. In addition to the proposed criteria EIOPA advises that, in cases where the allocation of equity to LTE has a material impact on the overall SCR of the undertaking, enhanced reporting requirements should apply (e.g. through the RSR) in addition to the regular reporting through ORSA established under criterion 1(h). Such requirements should focus on the assessment of the undertaking's ability to effectively hold equity in the long term from a risk management perspective, as well as a sensitivity analysis of the impact of LTE on its solvency position. The capital requirement for long-term equity investments shall be equal to the loss in the basic own funds that would result from an instantaneous decrease equal to 22% in the value of investments that are treated as long-term equity.'

Or. en

Amendment 626

Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point 43 a (new)

Directive 2009/138/EC

Article 105 a (new)

Text proposed by the Commission

Amendment

(1a) the following Article is inserted:

‘Article 105 a

Long-term equity investments

1. A sub-set of equity investments may be treated as long-term equity investments if the insurance or reinsurance undertaking demonstrates, to the satisfaction of the supervisory authority, that all of the following conditions are met:

(a) the sub-set of equity investments is

clearly identified;

(b) the sub-set of equity investment is included within a portfolio of assets which is assigned to cover the best estimate of a portfolio of insurance or reinsurance obligations corresponding to one or several clearly identified businesses, and the undertaking maintains that assignment;

(c) the assigned portfolio of assets referred to in point (b) are identified and managed separately from the other activities of the undertaking;

(d) a policy for long term investment management is set up for each long-term equity portfolio and reflects undertaking's commitment to hold the global exposure to equity in the sub-set of equity investment for a period that exceeds 5 years on average. The administrative, management or supervisory board of the undertaking has signed off these investment management policies and these policies are frequently reviewed against the actual management of the portfolios.

(e) the sub-set of equity investments consists only of equities that are listed in countries that are member of the OECD or of unlisted equities of companies that have their head offices in countries that are member of the OECD;

(f) where undertakings can demonstrate that either particular Homogeneous Risk Groups (HRG) of the life insurance and reinsurance liabilities belongs to categories I or II as defined for the purpose of the calculation of the VA and the Macaulay duration of the liabilities in this HRG exceeds 5 years or a sufficient liquidity buffer is in place for the portfolio of non-life insurance and reinsurance liabilities and the assigned portfolio of assets;

(g) the risk management, asset-liability management and investment policies of

the insurance or reinsurance undertaking reflects the undertaking's intention to hold the sub-set of equity investments for a period that is compatible with the requirement of point (d) and its ability to meet the requirement of point (f).

Those elements are reported in the Own Risk and Solvency Assessment (ORSA) of the undertakings;

(h) the sub-set of equity investments shall be properly diversified in such a way as to avoid excessive reliance on any particular issuer or group of undertakings and excessive accumulation of risk in the portfolio as a whole.

2. The proportion of equity backing life technical provisions that is assigned to the long-term equity investment category does not exceed the proportion of life technical provisions compliant with the criteria specified in paragraph 1 on the total life technical provisions of the insurance or reinsurance undertaking.

3. Where equities are held within collective investment undertakings or within alternative investment funds the conditions laid down in paragraph 1 may be assessed at the level of the funds and not of the underlying assets held within those funds.

4. Insurance or reinsurance undertakings that treat a sub-set of equity investments as long-term equity investments in accordance with paragraph 1 shall not revert to an approach that does not include long-term equity investments. Where an insurance or reinsurance undertaking that treats a sub-set of equity investments as long-term equity investments is no longer able to comply with the conditions set out in paragraph 1, it shall immediately inform the supervisory authority and shall cease to apply Articles 169(1)(b), (2)(b), (3)(b) and (4)(b) to any of its equity investments for a period of 36 months;

5. Participations shall be excluded from the sub-set of equity investments.

In addition to the proposed criteria EIOPA advises that, in cases where the allocation of equity to Long Term Equity (LTE) has a material impact on the overall SCR of the undertaking, enhanced reporting requirements should apply (e.g. through the Regular Supervisory Reporting) in addition to the regular reporting through ORSA established under criterion 1(h).

Such requirements should focus on the assessment of the undertaking's ability to effectively hold equity in the long term from a risk management perspective, as well as a sensitivity analysis of the impact of LTE on its solvency position.

The capital requirement for long-term equity investments shall be equal to the loss in the basic own funds that would result from an instantaneous decrease equal to 22% in the value of investments that are treated as long-term equity.'

Or. en

**Amendment 627
Johan Van Overtveldt**

**Proposal for a directive
Article 1 – paragraph 1 – point 43 a (new)
Directive 2009/138/EC
Article 105 a (new)**

Text proposed by the Commission

Amendment

(43a) the following Article is inserted:

'Article 105a

Long-term equity investments

1. A sub-set of equity investments may be treated as long-term equity investments if

the insurance or reinsurance undertaking demonstrates, to the satisfaction of the supervisory authority, that all of the following conditions are met:

(a) the sub-set of equity investments is clearly identified;

(b) the sub-set of equity investments is included within a portfolio of assets which is assigned to cover the best estimate, its risk margin and share of the own funds of a portfolio of insurance or reinsurance obligations corresponding to one or several clearly identified businesses;

(c) the assigned portfolio of assets referred to in point (b) is identified;

(d) the average holding period of equity investments in the sub-set exceeds five years, or where the average holding period of the sub-set is lower than five years, the insurance or reinsurance undertaking does not sell any equity investments within the sub-set until the average holding period exceeds five years;

(e) the sub-set of equity investments consists only of equities that are listed in countries that are members of the EU and/or the OECD or of unlisted equities of companies that have their head offices in countries that are members of the EU and/or the OECD;

(f) the solvency and liquidity position of the insurance or reinsurance undertaking, as well as its strategies, processes and reporting procedures with respect to asset-liability management, are such as to ensure, on an ongoing basis and under stressed conditions, that it is able to avoid forced sales of each equity investments within the sub-set for at least five years;

(g) the risk management, asset-liability management and investment policies of the insurance or reinsurance undertaking reflects the undertaking's intention to hold the sub-set of equity investments for a period that is compatible with the

condition laid down in point (e) and its ability to meet the condition laid down in point (g).

2. Where equities are held within collective investment undertakings or within alternative investment funds such as European Long Term Investment Funds (ELTIFs) the conditions laid down in paragraph 1 may be assessed at the level of the funds and not of the underlying assets held within those funds.

3. Insurance or reinsurance undertakings that treat a sub-set of equity investments as long-term equity investments in accordance with paragraph 1 of this Article shall not revert back to an approach that does not include long-term equity investments. Where an insurance or reinsurance undertaking that treats a sub-set of equity investments as long-term equity investments is no longer able to comply with the conditions laid down in paragraph 1 of this Article, it shall immediately inform the supervisory authority and shall cease to apply Articles 169(1)(b), (2)(b), (3)(b) and (4)(b) to any of its equity investments for a period of 36 months.

4. The capital requirement for long-term equity investments shall be equal to the loss in the basic own funds that would result from an instantaneous decrease equal to 22 % in the value of investments that are treated as long-term equity.'

Or. en

Justification

It is suggested to fine-tune the Rapporteur's amendment 129, with a view to further facilitate insurers to play their important role to provide long-term capital to businesses, either directly or indirectly through investment funds.

Amendment 628
Stéphanie Yon-Courtin, Gilles Boyer

Text proposed by the Commission

Amendment

(43a) the following Article is inserted:

‘Article 105a

Long-term equity investments

1. A sub-set of equity investments may be treated as long-term equity investments if the insurance or reinsurance undertaking demonstrates, to the satisfaction of the supervisory authority, that all of the following conditions are met:

a) the sub-set of equity investments is clearly identified;

b) the sub-set of equity investment is included within a portfolio of assets which is assigned to cover the best estimate of a portfolio of insurance or reinsurance obligations corresponding to one or several clearly identified businesses, including own funds and the risk margin, and the undertaking maintains that assignment;

c) the assigned portfolios of assets and liabilities referred to in point (b) are identified;

d) a policy for long-term investment management is set up for each long-term equity portfolio and reflects undertaking’s commitment to hold the global exposure to equity in the sub-set of equity investment for a period that exceeds 5 years on average. The AMSB of the undertaking has signed off these investment management policies and these policies are frequently reviewed against the actual management of the portfolios.

Those elements are reported in the own-risk assessment of the undertakings pursuant to article 45;

e) the sub-set of equity investments consists only of equities that are listed in the EEA or of unlisted equities of companies that have their head offices in countries that are members of the EEA;

(f) the insurance or reinsurance undertaking is able to demonstrate to the satisfaction of the supervisory authority that it is able to avoid forced selling of the sub-set of equity investments even in stressed situation ;

(g) the risk management, asset-liability management and investment policies of the insurance or reinsurance undertaking reflect the undertaking's intention to hold the sub-set of equity investments for a period that is compatible with the requirement of point (d) and its ability to meet the requirement of point (f).

(h) the sub-set of equity investments shall be properly diversified in such a way as to avoid excessive reliance on any particular issuer or group of undertakings with the same risk profile.

3. Where equities are held within collective investment undertakings or within alternative investment funds, the conditions set out in paragraph 1 of this Article may be assessed at the level of the funds and not of the underlying assets held within those funds.

4. Insurance or reinsurance undertakings that treat a sub-set of equity investments as long-term equity investments in accordance with paragraph 1 shall not revert to an approach that does not include long-term equity investments. Where an insurance or reinsurance undertaking that treats a sub-set of equity investments as long-term equity investments is no longer able to comply with the conditions set out in paragraph 1, it shall immediately inform the supervisory authority and shall cease to apply the instantaneous decrease in the value of equities referred to in point 5.

5. The capital requirement for long-term equity investments shall be equal to the loss in the basic own funds that would result from an instantaneous decrease equal to 22% in the value of investments that are treated as long-term equity.'

Or. en

Amendment 629

Eero Heinäluoma, Paul Tang, Jonás Fernández, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 43 a (new)

Directive 2009/138/EC

Article 105 a (new)

Text proposed by the Commission

Amendment

(43a) the following Article is inserted:

'Article 105a

Long-term equity investments

The European Commission shall adopt a delegated defining the criteria for the treatment of equity investments as long term equity investments. In order to benefit of a preferential treatment over these investments, criteria shall ensure a safe risk-management, that the investments take place in the Union, and that this equity is not issued by companies which have the parent company, subsidiaries or branches in a third country, which is mentioned in Annex I or Annex II to the Council conclusions of 2020 on the revised EU list on non-cooperative jurisdictions for tax purposes, or in the Delegated Regulation in relation to third countries which have strategic deficiencies in their AML/CFT regimes that pose significant threats to the financial system of the Union ('high-risk third countries'), stemming from Article 9 of Directive (EU) 2015/849.'

Amendment 630

Jessica Polfjärd

Proposal for a directive

Article 1 – paragraph 1 – point 44

Directive 2009/138/EC

Article 106 – paragraph 3

Text proposed by the Commission

3. The symmetric adjustment made to the standard equity capital charge covering the risk arising from changes in the level of equity prices shall not result in an equity capital charge being applied that is more than **17** percentage points lower or higher than the standard equity capital charge.;

Amendment

3. The symmetric adjustment made to the standard equity capital charge covering the risk arising from changes in the level of equity prices ***in relation to equities not covering liabilities from unit-linked life insurance policies and other similar insurance policies where the policyholders choose what to invest in and bear the investment risk*** shall not result in an equity capital charge being applied that is more than **10** percentage points lower or higher than the standard equity capital charge.;

Or. en

Justification

Clarifying that there are policies similar to unit-linked life insurance policies that should also be covered.

Amendment 631

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 44

Directive 2009/138/EC

Article 106 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *The final capital charge resulting from the application of the symmetric adjustment should not lead to a capital charge lower than the one which would have resulted from the application of an instantaneous decrease equal to 20% in the value of the equity investment.*

Or. en

Amendment 632
Frances Fitzgerald

Proposal for a directive
Article 1 – paragraph 1 – point 45
Directive 2009/138/EC
Article 109 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

1. Insurance and reinsurance undertakings may use a simplified calculation for a specific sub-module or risk module where the nature, scale and complexity of the risks they face justifies it ***and where it would be disproportionate to require all insurance and reinsurance undertakings to apply the standardised calculation.***

1. Insurance and reinsurance undertakings may use a simplified calculation for a specific sub-module or risk module where the nature, scale and complexity of the risks they face justifies it.

Or. en

Amendment 633
Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive
Article 1 – paragraph 1 – point 45
Directive 2009/138/EC
Article 109 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Notwithstanding the first subparagraph, low-risk profile undertakings may use a simplified calculation for a specific sub-module or risk module.

Or. en

Amendment 634

Eero Heinäluoma, Paul Tang, Jonás Fernández, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 45

Directive 2009/138/EC

Article 109 – paragraph 2

Text proposed by the Commission

Amendment

2. Without prejudice to paragraph 1 of this Article and to Article 102(1), where an insurance or reinsurance undertaking calculates the Solvency Capital Requirement and a risk module or sub-module does not represent a share of more than 5 % of the Basic Solvency Capital Requirement referred to in Article 103, point (a), the undertaking may use a simplified calculation for that risk module or sub-module during a period of no more than **three** years following that calculation of the Solvency Capital Requirement.

2. Without prejudice to paragraph 1 of this Article and to Article 102(1), where an insurance or reinsurance undertaking calculates the Solvency Capital Requirement and a risk module or sub-module does not represent a share of more than 5 % of the Basic Solvency Capital Requirement referred to in Article 103, point (a), the undertaking may use a simplified calculation for that risk module or sub-module during a period of no more than **two** years following that calculation of the Solvency Capital Requirement.

Or. en

Amendment 635

Frances Fitzgerald

Proposal for a directive

Article 1 – paragraph 1 – point 45

Directive 2009/138/EC

Article 109 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Notwithstanding paragraphs 2 and 3 of this Article, low-risk profile undertakings shall be considered eligible to use a simplified calculation for a specific sub-module or risk module.

Or. en

Amendment 636

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 46 – point a

Directive 2009/138/EC

Article 111 – paragraph 1 – point m

Text proposed by the Commission

Amendment

(m) the approach to be used with respect to qualifying holdings within the meaning of Article 13(21) in the calculation of the Solvency Capital Requirement, in particular the calculation of the equity risk sub-module referred to in Article 105(5), taking into account the ***likely reduction in the volatility of the value of those qualifying holdings arising from the strategic nature of those investments and the influence exercised by the insurance or reinsurance undertaking on those investees;***

(m) the approach to be used with respect to qualifying holdings within the meaning of Article 13(21) in the calculation of the Solvency Capital Requirement, in particular the calculation of the equity risk sub-module referred to in Article 105(5), taking into account the ***higher risks posed by holding equities of entities located in countries on the EU list of third-countries with strategic deficiencies or compliance weaknesses in their AML/CFT regime or in a country subject to EU restrictive measures or in a country on the list of non-cooperative countries for tax purposes;***

Or. en

Amendment 637

Elisabetta Gualmini

Proposal for a directive

Article 1 – paragraph 1 – point 46 – point a

Directive 2009/138/EC
Article 111 – paragraph 1 – point m a (new)

Text proposed by the Commission

Amendment

(ma) the conditions that should be met by insurance and reinsurance undertakings in order to identify equity investments which are held with a long-term perspective to be used when calculating the Solvency Capital Requirement, in particular the calculation of the equity risk sub-module referred to in Article 105(5). These conditions should be set in a manner that allows to encompass insurance obligations with at least a 5 year duration, taking into account an holding period of 5 years on average for the equity in the relevant sub-set.

Or. en

Amendment 638
Chris MacManus

Proposal for a directive
Article 1 – paragraph 1 – point 46 – point a
Directive 2009/138/EC
Article 111 – paragraph 1 – point m a (new)

Text proposed by the Commission

Amendment

(ma) the method and parameters to be used when assessing the capital requirement for climate-related financial risk in the case of exposures to fossil fuel assets referred to in Articles 101(4) and 105(5).

Or. en

Amendment 639
Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 46 – point a

Directive 2009/138/EC

Article 111 – paragraph 1 – point m a (new)

Text proposed by the Commission

Amendment

(ma) the method and parameters to be used when assessing the capital requirement for climate-related financial risk in the case of exposures to fossil fuel assets referred to in Articles 101(4) and 105(5).

Or. en

Justification

The amendment requires Solvency II capital requirement calculation to account for the higher risk associated with investing in fossil fuel sectors.

Amendment 640

Paul Tang

Proposal for a directive

Article 1 – paragraph 1 – point 46 – point a

Directive 2009/138/EC

Article 111 – paragraph 1 – point m a (new)

Text proposed by the Commission

Amendment

(ma) the method and parameters to be used when assessing the capital requirement for climate-related financial risk in the case of exposures to fossil fuel assets and activities that cause significant harm to environmental objectives referred to in Articles 101(4) and 105(5).

Or. en

Justification

Climate risks are increasingly important risks for insurers. They shall adhere to their transition plans to reduce those risks or hold additional capital in reserve in order to avoid losses for policyholders.

Amendment 641

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 46 – point b

Directive 2009/138/EC

Article 111 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where the Commission adopts delegated acts pursuant to point (c) of the first subparagraph to specify the methods, assumptions and standard parameters to be used for calculating the basic Solvency Capital Requirements, including the interest rates risk sub-module, it shall take duly into account the economic, financial and market environment and ensure that the assumptions used are robust and realistic.

Or. en

Amendment 642

Carlo Calenda

Proposal for a directive

Article 1 – paragraph 1 – point 46 – point b

Directive 2009/138/EC

Article 111 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

For the purpose of the first subparagraph, point (c), the methods, assumptions and standard parameters for the interest rate risk sub-module referred to in Article 105(5)(a) shall reflect the risk that low or negative interest rates may fall below their current level. By way of derogation from the previous sentence, the calculation of the interest rate risk sub-module shall not be required to take into account the risk

of interest rates falling to levels below a negative floor where a negative floor can be determined such that the likelihood of interest rates across relevant currencies and across maturities not being at all times above the negative floor is sufficiently small. Having this in mind and inline with interest rates dynamics, the explicit floor identified should be increasing and term-dependent.

Or. en

Amendment 643

Raffaele Fitto

Proposal for a directive

Article 1 – paragraph 1 – point 46 – point b

Directive 2009/138/EC

Article 111 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

For the purpose of the first subparagraph, point (c), the methods, assumptions and standard parameters for the interest rate risk sub-module referred to in Article 105(5)(a) shall reflect the risk that low or negative interest rates may fall below their current level. By way of derogation from the previous sentence, the calculation of the interest rate risk sub-module shall not be required to take into account the risk of interest rates falling to levels below a negative floor where a negative floor can be determined such that the likelihood of interest rates across relevant currencies and across maturities not being at all times above the negative floor is sufficiently small. Having this in mind and inline with interest rates dynamics, the explicit floor identified should be increasing and term-dependent.

Or. en

Amendment 644

Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point 46 – point b

Directive 2009/138/EC

Article 111 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

For the purpose of the first subparagraph, point (c), the methods, assumptions and standard parameters for the interest rate risk sub-module referred to in Article 105(5)(a) shall reflect the risk that low or negative interest rates may fall below their current level. By way of derogation from the previous sentence, the calculation of the interest rate risk sub-module shall not be required to take into account the risk of interest rates falling to levels below a negative floor where a negative floor can be determined such that the likelihood of interest rates across relevant currencies and across maturities not being at all times above the negative floor is sufficiently small. Having this in mind and in line with interest rates dynamics, the explicit floor identified should be increasing and term-dependent.

Or. en

Amendment 645

Johan Van Overtveldt

Proposal for a directive

Article 1 – paragraph 1 – point 46 – point b

Directive 2009/138/EC

Article 111 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Where the Commission adopts delegated acts pursuant to point (c) of the first subparagraph to specify the methods, assumptions and standard parameters to

be used for calculating the interest rate risk sub-module referred to in Article 105(5)(a) with the objective to improve the sensitivity of capital requirements in line with developments in interest rates, insurance or reinsurance undertakings may phase in such adjustments to the interest rate risk sub-module over a transitional period of up to five years.

Or. en

Justification

A transitional measure is introduced to provide for the possibility to smoothen the impact of the application of a negative floor for the interest rate risk calculation over a number of years. In order to avoid the burden of additional calculation and reporting obligations, it is suggested to make the application of such a transitional measure discretionary for insurance companies, some of which may prefer the implementation of the negative floor for the interest rate risk calculation without transitional measure.

Amendment 646

Fabio Massimo Castaldo

Proposal for a directive

Article 1 – paragraph 1 – point 46 – point b

Directive 2009/138/EC

Article 111 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

For the purpose of the first subparagraph, point (c), the methods, assumptions and standard parameters for the interest rate risk sub-module referred to in Article 105(5)(a) shall reflect the risk that low or negative interest rates may fall below their current level. By way of derogation from the previous sentence, the calculation of the interest rate risk sub-module shall not be required to take into account the risk of interest rates falling to levels below a negative floor where a negative floor can be determined such that the likelihood of interest rates across relevant currencies and across maturities not being at all times above the negative floor is

sufficiently small. Having this in mind and in line with interest rates dynamics, the explicit floor identified should be increasing and term-dependent.

Or. en

Amendment 647
Markus Ferber

Proposal for a directive
Article 1 – paragraph 1 – point 46 – point b
Directive 2009/138/EC
Article 111 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

For the purpose of the first subparagraph, point (c), the calculation of the interest rate risk sub-module referred to in Article 105(5)(a) shall be fully consistent with the extrapolation of interest rates according to Article 77a.

Or. en

Justification

To be read in conjunction with AM 134. The Amendment makes clear that the calculation of the interest rate risk should fully reflect the extrapolation method according to Article 77a.

Amendment 648
Stéphanie Yon-Courtin, Gilles Boyer

Proposal for a directive
Article 1 – paragraph 1 – point 46 a (new)
Directive 2009/138/EC
Article 111 – paragraph 3

Present text

Amendment

By 31 December 2020, the Commission shall make an assessment of the

(46a) Article 111 paragraph 3 is amended as follows:

"By 31 December 2025, and every five years thereafter, EIOPA shall make an

appropriateness of the methods, assumptions and standard parameters used when calculating the Solvency Capital Requirement standard formula. It shall in particular take into account the performance of any asset class and financial instruments, the behaviour of investors in those assets and financial instruments as well as developments in international standard setting in financial services. ***The review of certain asset classes may be prioritised.*** The Commission shall present ***a report to the European Parliament and to the Council, accompanied,*** where appropriate, ***by*** proposals for the amendment of this Directive, or of delegated or implementing acts adopted pursuant hereto.

assessment of the appropriateness of the methods, assumptions, and standard parameters used when calculating the Solvency Capital Requirement standard formula. It shall in particular take into account the performance of any asset class and financial instruments, the behaviour of investors in those assets and financial instruments as well as developments in international standard setting in financial services. ***On the basis of EIOPA's assessment,*** the Commission shall present, where appropriate, proposals for the amendment of this Directive, or of delegated or implementing acts adopted pursuant hereto.

”

Or. en

Amendment 649

Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/138/EC

Article 112 – paragraph 7

Text proposed by the Commission

Amendment

(47) in Article 112, paragraph 7 is replaced by the following:

deleted

7. After having received approval from supervisory authorities to use an internal model, and each time they report the result of a calculation of the Solvency Capital Requirement pursuant to Article 102(1), insurance and reinsurance undertakings shall provide the supervisory authorities with an estimate of the Solvency Capital Requirement determined in accordance with the

standard formula, as set out in Subsection 2.;
,

Or. en

Amendment 650

Eero Heinäluoma, Paul Tang, Jonás Fernández, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/138/EC

Article 112 – paragraph 7

Text proposed by the Commission

7. After having received approval from supervisory authorities to use an internal model, and each time they report the result of a calculation of the Solvency Capital Requirement pursuant to Article 102(1), insurance and reinsurance undertakings shall provide the supervisory authorities with an estimate of the Solvency Capital Requirement determined in accordance with the standard formula, as set out in Subsection 2.;

Amendment

7. After having received approval from supervisory authorities to use an internal model, and each time they report the result of a calculation of the Solvency Capital Requirement pursuant to Article 102(1), insurance and reinsurance undertakings shall provide the supervisory authorities with an estimate of the Solvency Capital Requirement determined in accordance with the standard formula, as set out in Subsection 2 ***as well as an explanation on possible divergence between both calculations.***

Or. en

Amendment 651

Stéphanie Yon-Courtin, Gilles Boyer

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/138/EC

Article 112 – paragraph 7

Text proposed by the Commission

7. After having received approval from supervisory authorities to use an

Amendment

7. After having received approval from supervisory authorities to use an

internal model, and each time they report the result of a calculation of the Solvency Capital Requirement pursuant to Article 102(1), insurance and reinsurance undertakings shall provide the supervisory authorities with an estimate of the Solvency Capital Requirement determined in accordance with the standard formula, as set out in Subsection 2.;

internal model, and each time they report the result of a calculation of the Solvency Capital Requirement pursuant to Article 102(1), insurance and reinsurance undertakings shall provide the supervisory authorities with an estimate of the Solvency Capital Requirement (**SCR**) determined in accordance with the standard formula, as set out in Subsection 2.;

Or. en

Justification

Internal models should be complemented by information based on the standard formula to allow the supervisor to understand and assess the profile of the undertaking and ensure a level playing field with insurers using the standard formula.

Amendment 652

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 47

Directive 2009/138/EC

Article 112 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Where the Solvency Capital Requirements resulting from the application of an internal model is 25% lower than the one that would have been determined by the application of the standard formula, the insurance or reinsurance undertaking shall provide a detailed and empirical based justification of this difference. Where the supervisory authority is not convinced by the justification provided by the insurance or reinsurance undertaking it may set a capital add-on, in accordance with Article 37.

Or. en

Amendment 653
Carlo Calenda

Proposal for a directive
Article 1 – paragraph 1 – point 48
Directive 2009/138/EC
Article 122 – paragraph 5

Text proposed by the Commission

Amendment

(48) in Article 122, the following paragraph 5 is added: *deleted*

‘

5. Member States may allow insurance and reinsurance undertakings to take into account the effect of credit spread movements on the volatility adjustment calculated in accordance with Article 77d in their internal model, only where:

(a) the method to take into account the effect of credit spread movements on the volatility adjustment for the euro does not take into account a possible increase of the volatility adjustment by a macro volatility adjustment pursuant to Article 77d(4);

(b) the Solvency Capital Requirement is not lower than any of the following:

(i) a notional Solvency Capital Requirement calculated as the Solvency Capital Requirement, except that the effect of credit spread movements on the volatility adjustment is taken into account in accordance with the methodology used by EIOPA for the purposes of the publication of technical information pursuant to Article 77e(1), point (c);

(ii) a notional Solvency Capital Requirement calculated in accordance with (i), except that the representative portfolio for a currency referred to in Article 77d(2), second subparagraph, is determined on the basis of the assets in which the insurance and reinsurance undertaking is investing instead of the

assets of all insurance or reinsurance undertakings with insurance or reinsurance obligations denominated in that currency.

For the purpose of the first subparagraph, point (b), the determination of the representative portfolio for a given currency shall be based on the undertaking's assets dominated in that currency and used to cover the best estimate for insurance and reinsurance obligations denominated in that currency.;

,

Or. en

Amendment 654

Raffaele Fitto

Proposal for a directive

Article 1 – paragraph 1 – point 48

Directive 2009/138/EC

Article 122 – paragraph 5

Text proposed by the Commission

Amendment

(48) in Article 122, the following paragraph 5 is added:

deleted

,

5. Member States may allow insurance and reinsurance undertakings to take into account the effect of credit spread movements on the volatility adjustment calculated in accordance with Article 77d in their internal model, only where:

(a) the method to take into account the effect of credit spread movements on the volatility adjustment for the euro does not take into account a possible increase of the volatility adjustment by a macro volatility adjustment pursuant to Article 77d(4);

(b) the Solvency Capital Requirement is not lower than any of the following:

(i) a notional Solvency Capital Requirement calculated as the Solvency Capital Requirement, except that the effect of credit spread movements on the volatility adjustment is taken into account in accordance with the methodology used by EIOPA for the purposes of the publication of technical information pursuant to Article 77e(1), point (c);

(ii) a notional Solvency Capital Requirement calculated in accordance with (i), except that the representative portfolio for a currency referred to in Article 77d(2), second subparagraph, is determined on the basis of the assets in which the insurance and reinsurance undertaking is investing instead of the assets of all insurance or reinsurance undertakings with insurance or reinsurance obligations denominated in that currency.

For the purpose of the first subparagraph, point (b), the determination of the representative portfolio for a given currency shall be based on the undertaking's assets dominated in that currency and used to cover the best estimate for insurance and reinsurance obligations denominated in that currency.;

,

Or. en

Amendment 655

Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point 48

Directive 2009/138/EC

Article 122 – paragraph 5

(48) in Article 122, the following paragraph 5 is added: *deleted*

‘

5. Member States may allow insurance and reinsurance undertakings to take into account the effect of credit spread movements on the volatility adjustment calculated in accordance with Article 77d in their internal model, only where:

(a) the method to take into account the effect of credit spread movements on the volatility adjustment for the euro does not take into account a possible increase of the volatility adjustment by a macro volatility adjustment pursuant to Article 77d(4);

(b) the Solvency Capital Requirement is not lower than any of the following:

(i) a notional Solvency Capital Requirement calculated as the Solvency Capital Requirement, except that the effect of credit spread movements on the volatility adjustment is taken into account in accordance with the methodology used by EIOPA for the purposes of the publication of technical information pursuant to Article 77e(1), point (c);

(ii) a notional Solvency Capital Requirement calculated in accordance with (i), except that the representative portfolio for a currency referred to in Article 77d(2), second subparagraph, is determined on the basis of the assets in which the insurance and reinsurance undertaking is investing instead of the assets of all insurance or reinsurance undertakings with insurance or reinsurance obligations denominated in that currency.

For the purpose of the first subparagraph, point (b), the determination of the representative portfolio for a given

currency shall be based on the undertaking's assets dominated in that currency and used to cover the best estimate for insurance and reinsurance obligations denominated in that currency.;

,

Or. en

Amendment 656
Fabio Massimo Castaldo

Proposal for a directive
Article 1 – paragraph 1 – point 48
Directive 2009/138/EC
Article 122 – paragraph 5

Text proposed by the Commission

Amendment

(48) in Article 122, the following paragraph 5 is added:

deleted

,

5. Member States may allow insurance and reinsurance undertakings to take into account the effect of credit spread movements on the volatility adjustment calculated in accordance with Article 77d in their internal model, only where:

(a) the method to take into account the effect of credit spread movements on the volatility adjustment for the euro does not take into account a possible increase of the volatility adjustment by a macro volatility adjustment pursuant to Article 77d(4);

(b) the Solvency Capital Requirement is not lower than any of the following:

(i) a notional Solvency Capital Requirement calculated as the Solvency Capital Requirement, except that the effect of credit spread movements on the volatility adjustment is taken into account

in accordance with the methodology used by EIOPA for the purposes of the publication of technical information pursuant to Article 77e(1), point (c);

(ii) a notional Solvency Capital Requirement calculated in accordance with (i), except that the representative portfolio for a currency referred to in Article 77d(2), second subparagraph, is determined on the basis of the assets in which the insurance and reinsurance undertaking is investing instead of the assets of all insurance or reinsurance undertakings with insurance or reinsurance obligations denominated in that currency.

For the purpose of the first subparagraph, point (b), the determination of the representative portfolio for a given currency shall be based on the undertaking's assets dominated in that currency and used to cover the best estimate for insurance and reinsurance obligations denominated in that currency.;

,

Or. en

Amendment 657

Eero Heinäluoma, Paul Tang, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 49 – point - a (new)

Directive 2009/138/EC

Article 132 – paragraphs 1, 2, 2 a (new) and 2 b (new)

Present text

1. Member States shall ensure that insurance and reinsurance undertakings invest all their assets in accordance with the prudent person principle, as specified in

Amendment

(-a) paragraphs 1 and 2 are replaced by the following:

"1. Member States shall ensure that insurance and reinsurance undertakings invest all their assets in accordance with the prudent person principle, as specified in

paragraphs 2, 3 and 4.

2. With respect to the whole portfolio of assets, insurance and reinsurance undertakings shall only invest in assets and instruments whose risks the undertaking concerned can properly identify, measure, monitor, manage, control and report, and appropriately take into account in the assessment of its overall solvency needs in accordance with point (a) of the second subparagraph of Article 45(1).

All assets, in particular those covering the Minimum Capital Requirement and the Solvency Capital Requirement, shall be invested in such a manner as to ensure the security, quality, liquidity and profitability of the portfolio as a whole. In addition the localisation of those assets shall be such as to ensure their availability.

Assets held to cover the technical provisions shall also be invested in a manner appropriate to the nature and duration of the insurance and reinsurance liabilities. Those assets shall be invested in the best interest of all policy holders and beneficiaries taking into account any disclosed policy objective.

In the case of a conflict of interest, insurance undertakings, or the entity which manages their asset portfolio, shall ensure that the investment is made in the best interest of policy holders and beneficiaries.

paragraphs 2, **2a (new)**, **2b (new)**, 3 and 4.

2. With respect to the whole portfolio of assets, insurance and reinsurance undertakings shall only invest in assets and instruments whose risks, **including potential sustainability risks**, the undertaking concerned can properly identify, measure, monitor, manage, control and report, and appropriately take into account in the assessment of its overall solvency needs in accordance with point (a) of the second subparagraph of Article 45(1).

2a. 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, that strategy and those decisions shall reflect the sustainability preferences of its customers taken into account in the product approval process as referred to in Article 4 of Commission Delegated Regulation (EU) 2017/2358.

2b. Insurance and reinsurance undertakings shall have and shall publicly disclose a written policy in relation to their approach to stewardship including a summary of how the steps the undertaking has taken to achieve the goals of the policy in the preceding year. The stewardship policy shall be subject to prior approval by the administrative, management or supervisory body and shall be reviewed at least annually. Insurance and reinsurance undertakings shall integrate their transition plan within their investment strategy and decisions.

"

Or. en

Amendment 658

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 49 – point -a (new)

Directive 2009/138/EC

Article 132 – paragraph 1

Text proposed by the Commission

Amendment

(-a) paragraph 1 is replaced by the following:

'1. Member States shall ensure that insurance and reinsurance undertakings invest all their assets in accordance with the prudent person principle, as specified in paragraphs 2, 2a (new), 2b (new), 3 and 4.'

Or. en

Amendment 659

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 49 – point -a a (new)

Directive 2009/138/EC

Article 132 – paragraph 2a and 2b (new)

Text proposed by the Commission

Amendment

(-aa) the following paragraphs are inserted:

'2a. Insurance and reinsurance undertakings shall take into account the potential long-term impact of their investment strategy and decisions on sustainability factors. Insurance and reinsurance undertakings shall integrate

their transition plan within their investment strategy and decisions. Where relevant, their investment strategy and decisions shall reflect the sustainability preferences of the undertaking's customers taken into account in the product approval process as referred to in Article 4 of Commission Delegated Regulation (EU) 2017/2358.

2b. Insurance and reinsurance undertakings shall have a written policy defining how the undertaking spurs the strategy, business and operations of the entities in which it invests in order to ensure the alignment of these entities' strategy, business and operations with the climate neutrality objective as defined in Article 2(1) of the Regulation EU 2021/1119. Insurance and reinsurance undertakings shall disclose this written policy and review it at least every two years. '

Or. en

Amendment 660
Chris MacManus

Proposal for a directive
Article 1 – paragraph 1 – point 49 – point - a (new)
Directive 2009/138/EC
Article 132 – paragraphs 2 a (new) and 2 b (new)

Text proposed by the Commission

Amendment

(-a) the following paragraphs are inserted:

'2a. Insurance and reinsurance undertakings shall take into account the potential long-term impact of their investment strategy and decisions on sustainability factors. Where relevant, that strategy and those decisions shall reflect the sustainability preferences of its customers taken into account in the produce approval process as referred to in

Article 4 of Commission Delegated Regulation (EU) 2017/2358.

2b. Insurance and reinsurance undertakings shall have and shall publicly disclose a written policy in relation to their approach to stewardship including a summary of how the undertaking has taken steps to achieve the goals of the policy in the preceding year. The stewardship policy must be subject to prior approval by the administrative, management or supervisory body and shall be reviewed at least annually.

Insurance and reinsurance undertakings shall integrate their transition plan within their investment strategy and decisions.'

Or. en

Amendment 661
Chris MacManus

Proposal for a directive
Article 1 – paragraph 1 – point 49 – point b
Directive 2009/138/EC
Article 132 – paragraph 5

Text proposed by the Commission

5. Member States shall ensure that insurance and reinsurance undertakings take account of possible macroeconomic and financial markets' developments and, at the request of the supervisory authority, macroprudential concerns when they decide on their investment strategy.

Amendment

5. Member States shall ensure that insurance and reinsurance undertakings take account of possible macroeconomic and financial markets' developments, ***including developments related to climate change and pandemics***, and, at the request of the supervisory authority, macroprudential concerns when they decide on their investment strategy.

Or. en

Amendment 662
Eero Heinäluoma, Paul Tang, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 49 – point b

Directive 2009/138/EC

Article 132 – paragraph 5

Text proposed by the Commission

5. Member States shall ensure that insurance and reinsurance undertakings take account of possible macroeconomic and financial markets' developments and, at the request of the supervisory authority, macroprudential concerns when they decide on their investment strategy.

Amendment

5. Member States shall ensure that insurance and reinsurance undertakings take account of possible macroeconomic and financial markets' developments ***including developments related to climate change and pandemics*** and, at the request of the supervisory authority, macroprudential concerns when they decide on their investment strategy.

Or. en

Amendment 663

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 49 – point b

Directive 2009/138/EC

Article 132 – paragraph 5

Text proposed by the Commission

5. Member States shall ensure that insurance and reinsurance undertakings take account of possible macroeconomic and financial markets' developments and, at the request of the supervisory authority, macroprudential concerns when they decide on their investment strategy.

Amendment

5. Member States shall ensure that insurance and reinsurance undertakings take account of possible macroeconomic and financial markets' developments, ***including developments related to climate change,*** and, at the request of the supervisory authority, macroprudential concerns when they decide on their investment strategy.

Or. en

Amendment 664

Chris MacManus

Proposal for a directive
Article 1 – paragraph 1 – point 49 – point b
Directive 2009/138/EC
Article 132 – paragraph 6

Text proposed by the Commission

6. Insurance and reinsurance undertakings shall assess the extent to which their investment strategy may affect macroeconomic and financial markets' developments and have the potential to turn into sources of systemic risk, **and incorporate such** considerations as part of **their** investment decisions.

Amendment

6. Insurance and reinsurance undertakings shall assess the extent to which their investment strategy may affect macroeconomic and financial markets' developments, **including developments related to climate change**, and have the potential to turn into sources of systemic risk. **Undertakings should also consider the cumulative impact of their own investment strategy and those of other undertakings. These assessments and considerations should be incorporated** as part of **the** investment decisions **of the undertaking**.

Or. en

Justification

Even if an individual small undertaking could be said not to pose a systemic risk, their investment strategy must be seen within the wider systemic context where the cumulative investment strategies of many undertakings can affect financial market developments and therefore pose a systemic risk.

Amendment 665
Eero Heinäluoma, Paul Tang, Aurore Lalucq

Proposal for a directive
Article 1 – paragraph 1 – point 49 – point b
Directive 2009/138/EC
Article 132 – paragraph 6

Text proposed by the Commission

6. Insurance and reinsurance undertakings shall assess the extent to which their investment strategy may affect macroeconomic and financial markets' developments and have the potential to turn into sources of systemic risk, and

Amendment

6. Insurance and reinsurance undertakings shall assess the extent to which their investment strategy may affect macroeconomic and financial markets' developments **including developments related to climate change and pandemics**

incorporate such considerations as part of their investment decisions.

and have the potential to turn into sources of systemic risk, and incorporate such considerations as part of their investment decisions.

Or. en

Amendment 666

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 49 – point b

Directive 2009/138/EC

Article 132 – paragraph 6

Text proposed by the Commission

6. Insurance and reinsurance undertakings shall assess the extent to which their investment strategy may affect macroeconomic and financial markets' developments and have the potential to turn into sources of systemic risk, and incorporate such considerations as part of their investment decisions.

Amendment

6. Insurance and reinsurance undertakings shall assess the extent to which their investment strategy may affect macroeconomic and financial markets' developments, ***including developments related to climate change*** and have the potential to turn into sources of systemic risk, and incorporate such considerations as part of their investment decisions.

Or. en

Amendment 667

Stéphanie Yon-Courtin, Gilles Boyer

Proposal for a directive

Article 1 – paragraph 1 – point 49 – point b

Directive 2009/138/EC

Article 132 – paragraph 6

Text proposed by the Commission

6. Insurance and reinsurance undertakings shall assess the extent to which their investment strategy may affect macroeconomic and financial markets' developments and have the potential to

Amendment

6. Insurance and reinsurance undertakings shall assess the extent to which their investment strategy may affect macroeconomic and financial markets' developments and have the potential to

turn into sources of systemic risk, and incorporate such considerations *as part of* their investment decisions.

turn into sources of systemic risk, and incorporate such considerations *into* their investment decisions.

Or. en

Amendment 668

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 49 – point b

Directive 2009/138/EC

Article 132 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Supervisory authorities shall verify that the investment policy of the insurance or reinsurance undertaking is aligned with the objectives and targets set in its transition plan in accordance with Article 44a (new).

Or. en

Amendment 669

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 51 – point a

Directive 2009/138/EC

Article 138 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Amendment

In the event of exceptional adverse situations affecting insurance and reinsurance undertakings representing a significant share of the market or of the affected lines of business, as declared by EIOPA, the supervisory authority may extend, for affected undertakings, the period set out in paragraph 3, second

In the event of exceptional adverse situations affecting insurance and reinsurance undertakings representing a significant share of the market or of the affected lines of business, as declared by EIOPA, the supervisory authority may extend, for affected undertakings, the period set out in paragraph 3, second

subparagraph, by a maximum period of **seven** years, taking into account all relevant factors including the average duration of the technical provisions.;

subparagraph, by a maximum period of **three** years, taking into account all relevant factors including the average duration of the technical provisions.;

Or. en

Amendment 670

Eero Heinäluoma, Paul Tang, Jonás Fernández, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 52

Directive 2009/138/EC

Article 139 – paragraph 3

Text proposed by the Commission

3. If a winding-up proceeding is not opened within two months of receipt of the information referred to in paragraph 1, the supervisory authority of the home Member State shall **consider restricting or prohibiting** the free disposal of assets of the insurance or reinsurance undertaking. It shall inform the supervisory authorities of the host Member States accordingly. At the request of the supervisory authority of the home Member State, those authorities shall take the same measures. The supervisory authority of the home Member State shall designate the assets to be covered by such measures.

Amendment

3. If a winding-up proceeding is not opened within two months of receipt of the information referred to in paragraph 1, the supervisory authority of the home Member State shall **restrict or prohibit** the free disposal of assets of the insurance or reinsurance undertaking. It shall inform the supervisory authorities of the host Member States accordingly. At the request of the supervisory authority of the home Member State, those authorities shall take the same measures. The supervisory authority of the home Member State shall designate the assets to be covered by such measures.

Or. en

Amendment 671

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 52

Directive 2009/138/EC

Article 139 – paragraph 4

Text proposed by the Commission

4. EIOPA **may** develop guidelines for the actions that supervisory authorities should take when they observe a failure to comply with the Minimum Capital Requirement or the risk of non-compliance referred to in paragraph 1.;

Amendment

4. EIOPA **shall** develop guidelines for the actions that supervisory authorities should take when they observe a failure to comply with the Minimum Capital Requirement or the risk of non-compliance referred to in paragraph 1.;

Or. en

Amendment 672

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 52 a (new)

Directive 2009/138/EC

Article 144 – paragraph 1 – point c a (new) and subparagraph 1 a (new)

Text proposed by the Commission

Amendment

(52a) paragraph 1 of Article 144 is amended as follows:

a) The following point is added:

‘ca) the undertaking has infringed the national law transposing Directive (EU) 2015/849 in respect of money laundering or terrorist financing’;

b) the following subparagraph is inserted:

‘For the purpose of the criterion defined in point (ca) (new), supervisory authorities shall consult authorities competent for the supervision of the obliged entities in accordance with Directive (EU) 2015/849.’

Or. en

Amendment 673

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive
Article 1 – paragraph 1 – point 54
Directive 2009/138/EC
Article 144a – paragraph 2

Text proposed by the Commission

2. For the purpose of paragraph 1, Member States shall ensure that insurance and reinsurance undertakings draw up and maintain a liquidity risk management plan projecting the incoming and outgoing cash flows in relation to their assets and liabilities. Member States shall ensure that insurance and reinsurance undertakings develop a set of liquidity risk indicators to identify, monitor and address potential liquidity stress.

Amendment

2. For the purpose of paragraph 1, Member States shall ensure that insurance and reinsurance undertakings draw up and maintain a liquidity risk management plan projecting the incoming and outgoing cash flows in relation to their assets and liabilities. Member States shall ensure that insurance and reinsurance undertakings develop **and keep up to date** a set of liquidity risk indicators to identify, monitor and address potential liquidity stress.

Or. en

Amendment 674
Eero Heinäluoma, Aurore Lalucq

Proposal for a directive
Article 1 – paragraph 1 – point 54
Directive 2009/138/EC
Article 144a – paragraph 6 – subparagraph 1

Text proposed by the Commission

6. In order to ensure consistent application of this Article, EIOPA shall develop draft regulatory technical standards to further specify the content and the frequency of update of the liquidity risk management plan.

Amendment

6. In order to ensure consistent application of this Article, EIOPA shall develop draft regulatory technical standards to further specify the content, **the format** and the frequency of update of the liquidity risk management plan.

Or. en

Amendment 675
Henrike Hahn
on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 54

Directive 2009/138/EC

Article 144b – paragraph 2 – subparagraph 2

Text proposed by the Commission

The measures taken by supervisory authorities on the basis of this paragraph shall be reviewed at least once a year by the supervisory authority and be removed when the undertaking has taken effective remedies.

Amendment

The measures taken by supervisory authorities on the basis of this paragraph shall be reviewed at least once a year by the supervisory authority and be removed when the undertaking has taken effective remedies. ***Where relevant, the supervisory authority shall share the evidence of liquidity risk and vulnerabilities with the EIOPA.***

Or. en

Amendment 676

Fabio Massimo Castaldo

Proposal for a directive

Article 1 – paragraph 1 – point 54

Directive 2009/138/EC

Article 144b – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Member States shall ensure that ***supervisory authorities have the power to temporarily suspend redemption rights of policyholders on life insurance policies of*** undertakings facing ***significant*** liquidity risks that may cause a threat to the protection of policyholders or to the stability of the financial system.

Amendment

3. Member States shall ensure that, ***in relation to*** undertakings facing ***extreme*** liquidity risks ***and with an imminent risk of non-compliance with their Solvency Capital Requirement*** that may cause a ***severe and imminent*** threat to the protection of policyholders or to the stability of the financial system, ***supervisory authorities have the power to temporarily:***

(a) restrict or suspend dividend distributions to shareholders and other subordinated creditors;

(b) restrict or suspend other payments to shareholders and other subordinated creditors;

(c) restrict or suspend share buy-backs and repayment or redemption of own fund items;

(d) restrict or suspend bonuses or other variable remuneration;

(e) suspend redemption rights of life insurance policy holders.

Or. en

Amendment 677

Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point 54

Directive 2009/138/EC

Article 144b – paragraph 3 – subparagraph 2

Text proposed by the Commission

Such a power shall only be exercised in exceptional circumstances, as a last resort measure. Before exercising such a power, the supervisory authority shall take into account potential unintended effects on financial markets and on the rights of policyholders, including in a cross-border context.

Amendment

Such a power shall only be exercised in exceptional circumstances, as a last resort measure ***and where this is in the collective interest of policy holders***. Before exercising such a power, the supervisory authority shall take into account potential unintended effects on financial markets and on the rights of policyholders, including in a cross-border context. ***Supervisory authorities shall duly justify the application of those powers in writing.***

Or. en

Amendment 678

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 54

Directive 2009/138/EC

Article 144b – paragraph 3 – subparagraph 3

Text proposed by the Commission

The application of the measure referred to in the first subparagraph shall last three months. Member States shall ensure that the measure can be renewed if the underlying reasons that justify it are still present and it is no longer applied when those reasons are no longer present.

Amendment

The application of the measure referred to in the first subparagraph shall last ***no more than*** three months. Member States shall ensure that the measure can be renewed if the underlying reasons that justify it are still present and it is no longer applied when those reasons are no longer present.

Or. en

Amendment 679

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 54

Directive 2009/138/EC

Article 144b – paragraph 3 – subparagraph 4 a (new)

Text proposed by the Commission

Amendment

Member States will ensure that supervisory authorities have the necessary powers for this purpose.

Or. en

Amendment 680

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 54

Directive 2009/138/EC

Article 144b – paragraph 3 – subparagraph 5

Text proposed by the Commission

Amendment

Member States shall ensure that authorities with a macroprudential mandate, where different from the supervisory authorities, are duly informed of the supervisory authority's intention to make use of the power referred to in this paragraph, and are

Member States shall ensure that authorities with a macroprudential mandate, where different from the supervisory authorities, are duly ***and timely*** informed of the supervisory authority's intention to make use of the power referred to in this

appropriately involved in assessing the potential unintended effects referred to in the second subparagraph.

paragraph, and are *fully* involved in assessing the potential unintended effects referred to in the second subparagraph.

Or. en

Amendment 681

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 54

Directive 2009/138/EC

Article 144b – paragraph 3 – subparagraph 6

Text proposed by the Commission

Member States shall ensure that supervisory authorities shall notify EIOPA and ESRB whenever the power referred to in paragraph 3 is exercised to address a risk for the stability of the financial system.

Amendment

Member States shall ensure that supervisory authorities shall notify EIOPA and ESRB *in due time* whenever the power referred to in paragraph 3 is exercised to address a risk for the stability of the financial system.

Or. en

Amendment 682

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 54

Directive 2009/138/EC

Article 144b – paragraph 3 – subparagraph 6 a (new)

Text proposed by the Commission

Amendment

Where the EIOPA and the ESRB consider that the exercise of the power referred to in paragraph 3 by the competent authority is excessive, they shall issue an opinion and recommend the supervisory authority concerned to review its decision.

Or. en

Amendment 683

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 54

Directive 2009/138/EC

Article 144b – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. The power referred to in paragraph 3 may be exercised in relation to ***all*** undertakings operating in that Member State where the exceptional circumstances referred to in paragraph 3 affect the whole or a significant part of the insurance market.

Amendment

4. The power referred to in paragraph 3 may be exercised in relation to undertakings operating in that Member State where the exceptional circumstances referred to in paragraph 3 affect the whole or a significant part of the insurance market.

Or. en

Amendment 684

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 54

Directive 2009/138/EC

Article 144b – paragraph 5 – subparagraph 1

Text proposed by the Commission

5. Member States shall ensure that the authority referred to in paragraph 4, second subparagraph, shall notify EIOPA and, where the measure is taken to address a risk to the stability of the financial system, the ESRB of the use of the power referred to in paragraph 4.

Amendment

5. Member States shall ensure that the authority referred to in paragraph 4, second subparagraph, shall notify ***in due time*** EIOPA and, where the measure is taken to address a risk to the stability of the financial system, the ESRB of the use of the power referred to in paragraph 4.

Or. en

Amendment 685

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive
Article 1 – paragraph 1 – point 54
Directive 2009/138/EC
Article 144b – paragraph 6 – point a

Text proposed by the Commission

(a) **provide further guidance** on measures to address deficiencies in liquidity risk management and on the form, activation and calibration of powers that supervisory authorities may exercise to reinforce the liquidity position of undertakings when liquidity risks are identified and are not adequately remedied by these undertakings;

Amendment

(a) on measures to address deficiencies in liquidity risk management and on the form, activation and calibration of powers that supervisory authorities may exercise to reinforce the liquidity position of undertakings when liquidity risks are identified and are not adequately remedied by these undertakings;

Or. en

Amendment 686
Eero Heinäluoma, Aurore Lalucq

Proposal for a directive
Article 1 – paragraph 1 – point 54
Directive 2009/138/EC
Article 144c – paragraph 1

Text proposed by the Commission

1. Without prejudice to Article 141, Member States shall ensure that supervisory authorities have the power to take measures to preserve the financial position of **individual** insurance or reinsurance undertakings during periods of exceptional **sector-wide shocks** that have the potential to threaten the **financial position of the undertaking concerned or the** stability of the financial system.

Amendment

1. Without prejudice to Article 141, Member States shall ensure that supervisory authorities have the power to take measures to preserve the financial position of insurance or reinsurance undertakings during periods of exceptional **adverse situations** that have the potential to threaten the stability of the financial system.

Or. en

Amendment 687
Henrike Hahn
on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 54

Directive 2009/138/EC

Article 144c – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

2. During periods of exceptional sector-wide shocks, supervisory authorities shall have the power to require undertakings with a particularly vulnerable risk profile to take at least the following measures:

Amendment

2. During periods of exceptional sector-wide shocks, supervisory authorities shall have the power to require undertakings with a particularly vulnerable risk profile ***or especially vulnerable to an exceptional market-wide shock*** to take at least the following measures:

Or. en

Amendment 688

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 54

Directive 2009/138/EC

Article 144c – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

2. During periods of exceptional sector-wide shocks, supervisory authorities shall have the power to require undertakings ***with a particularly vulnerable risk profile*** to take at least the following measures:

Amendment

2. During periods of exceptional sector-wide shocks, supervisory authorities shall have the power to require undertakings to take at least the following measures:

Or. en

Amendment 689

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 54

Directive 2009/138/EC

Article 144c – paragraph 3

Text proposed by the Commission

3. The application of the measures referred to in paragraph 2 of this Article shall duly take into account the proportionality criteria referred to in Article 29(3), ***and the existence of any preventively agreed risk tolerance limits and thresholds for internal capital planning.***

Amendment

3. The application of the measures referred to in paragraph 2 of this Article shall duly take into account the proportionality criteria referred to in Article 29(3). ***When applied only to one insurance or reinsurance undertaking or to only a subset of insurance or reinsurance undertakings, the supervisory authorities shall ensure that the application of such measure is not discriminatory.***

Or. en

Amendment 690

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 54

Directive 2009/138/EC

Article 144c – paragraph 6

Text proposed by the Commission

6. For the purpose of this Article, significant intra-group transactions referred to in Article 245(2) including intra-group dividend distributions, shall ***only*** be suspended or restricted ***where they are a threat to the solvency or liquidity position of the group or of one of the undertakings within the group.*** The supervisory authority of a related undertaking shall consult the group supervisor before suspending or restricting transactions with the rest of the group.

Amendment

6. For the purpose of this Article, significant intra-group transactions referred to in Article 245(2) including intra-group dividend distributions, shall be ***temporary*** suspended or restricted. The supervisory authority of a related undertaking shall consult the group supervisor before suspending or restricting transactions with the rest of the group.

Or. en

Amendment 691

Christophe Hansen

Proposal for a directive

Article 1 – paragraph 1 – point 56

Directive 2009/138/EC

Article 149 – paragraph 2

Text proposed by the Commission

2. Where there is a change in the business pursued by the insurance undertaking under the freedom to provide services that is materially affecting its risk profile or materially influencing the insurance activities in one or more host Member States, the insurance undertaking shall inform the supervisory authority of the home Member State **immediately**. The supervisory authority of the home Member State shall inform the supervisory authorities of the host Member States concerned **without delay**;

Amendment

2. Where there is a change in the business pursued by the insurance undertaking under the freedom to provide services that is materially affecting its risk profile or materially influencing the insurance activities in one or more host Member States, the insurance undertaking shall inform the supervisory authority of the home Member State. The supervisory authority of the home Member State shall inform the supervisory authorities of the host Member States concerned **within one month**;

Or. en

Amendment 692

Frances Fitzgerald

Proposal for a directive

Article 1 – paragraph 1 – point 57

Directive 2009/138/EC

Article 152a – paragraph 2

Text proposed by the Commission

2. The supervisory authority of the home Member State shall notify EIOPA and the supervisory authority of the relevant host Member State if it identifies deteriorating financial conditions or other emerging risks, including those concerning consumer protection, posed by an insurance or reinsurance undertaking carrying out activities which are based on the freedom to provide services or the freedom of establishment and which may have a cross-border effect. The supervisory authority of the host Member State **may** also notify EIOPA and the supervisory

Amendment

2. The supervisory authority of the home Member State shall notify EIOPA and the supervisory authority of the relevant host Member State if it identifies deteriorating financial conditions or other emerging risks, including those concerning consumer protection, posed by an insurance or reinsurance undertaking carrying out activities which are based on the freedom to provide services or the freedom of establishment and which may have a cross-border effect. The supervisory authority of the host Member State **shall** also notify EIOPA and the supervisory

authority of the *relevant* home Member State where it has serious and reasoned concerns with regard to consumer protection. *The supervisory authorities may refer the matter to EIOPA and request its assistance where no bilateral solution can be found.*;

authority of the home Member State where it has serious and reasoned concerns with regard to consumer protection.;

Or. en

Amendment 693
Christophe Hansen

Proposal for a directive
Article 1 – paragraph 1 – point 57
Directive 2009/138/EC
Article 152a – paragraph 2

Text proposed by the Commission

2. The supervisory authority of the home Member State shall notify **EIOPA** **and** the supervisory authority of the relevant host Member State if it identifies deteriorating financial conditions or other emerging risks, including those concerning consumer protection, posed by an insurance or reinsurance undertaking carrying out activities which are based on the freedom to provide services or the freedom of establishment and which may have a cross-border effect. The supervisory authority of the host Member State may also notify **EIOPA** **and** the supervisory authority of the relevant home Member State where it has serious and reasoned concerns with regard to consumer protection. The supervisory authorities may refer the matter to EIOPA and request its assistance where no bilateral solution can be found.;

Amendment

2. The supervisory authority of the home Member State shall notify the supervisory authority of the relevant host Member State if it identifies deteriorating financial conditions or other emerging risks, including those concerning consumer protection, posed by an insurance or reinsurance undertaking carrying out activities which are based on the freedom to provide services or the freedom of establishment and which may have a cross-border effect. The supervisory authority of the host Member State may also notify the supervisory authority of the relevant home Member State where it has serious and reasoned concerns with regard to consumer protection. The supervisory authorities may refer the matter to EIOPA and request its assistance where no bilateral solution can be found.;

Or. en

Amendment 694
Frances Fitzgerald

Proposal for a directive
Article 1 – paragraph 1 – point 58
Directive 2009/138/EC
Article 152b – paragraph 1

Present text

Amendment

1. EIOPA *may, in the case of justified concerns about negative effects on policy holders, on its own initiative or at the request of one or more of the relevant supervisory authorities*, set up and coordinate a collaboration platform to strengthen the exchange of information and to enhance collaboration between the relevant supervisory authorities where an insurance or reinsurance undertaking carries out, or intends to carry out, activities which are based on the freedom to provide services or the freedom of establishment *and where:*

(a) such activities are of relevance with respect to the host Member State's market;

(b) a notification by the supervisory authority of the home Member State has been made under Article 152a(2) of deteriorating financial conditions or other emerging risks; or

(c) the matter has been referred to EIOPA under Article 152a(2).

1. EIOPA *shall* set up and coordinate a collaboration platform to strengthen the exchange of information and to enhance collaboration between the relevant supervisory authorities where an insurance or reinsurance undertaking carries out, or intends to carry out, activities which are based on the freedom to provide services or the freedom of establishment.

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0138-20210630>)

Amendment 695
Frances Fitzgerald

Proposal for a directive
Article 1 – paragraph 1 – point 58

Directive 2009/138/EC
Article 152b – paragraph 2

Present text

Amendment

2. Paragraph 1 is without prejudice to the right of the relevant supervisory authorities to setup a collaboration platform where they all agree to do so. **deleted**

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0138-20210630>)

Amendment 696
Frances Fitzgerald

Proposal for a directive
Article 1 – paragraph 1 – point 58

Directive 2009/138/EC
Article 152b – paragraph 3

Present text

Amendment

3. The setting up of a collaboration platform pursuant to **paragraphs 1 and 2** is without prejudice to the supervisory mandate of the supervisory authorities of the home Member State and host Member State provided for in this Directive.

3. The setting up of a collaboration platform pursuant to **paragraph 1** is without prejudice to the supervisory mandate of the supervisory authorities of the home Member State and host Member State provided for in this Directive.

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0138-20210630>)

Amendment 697
Frances Fitzgerald

Proposal for a directive
Article 1 – paragraph 1 – point 58

Directive 2009/138/EC
Article 152b – paragraph 4

Present text

Amendment

4. Without prejudice to Article 35 of Regulation(EU) No 1094/2010, **at the request of EIOPA**, the relevant supervisory authorities shall provide all necessary information in a timely manner to allow for the proper functioning of the collaboration platform.

4. Without prejudice to Article 35 of Regulation(EU) No 1094/2010, the relevant supervisory authorities shall provide all necessary information in a timely manner to allow for the proper functioning of the collaboration platform.

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0138-20210630>)

Amendment 698
Frances Fitzgerald

Proposal for a directive
Article 1 – paragraph 1 – point 58
Directive 2009/138/EC
Article 152b – paragraph 5

Text proposed by the Commission

Amendment

5. Where two or more relevant authorities of a collaboration platform disagree about the procedure or content of an action to be taken, or inaction, in relation to an insurance or reinsurance undertaking, EIOPA **may**, at the request of any relevant authority **or on its own initiative**, assist the authorities in reaching an agreement in accordance with Article 19(1) of Regulation (EU) No 1094/2010.

5. Where two or more relevant authorities of a collaboration platform disagree about the procedure or content of an action to be taken, or inaction, in relation to an insurance or reinsurance undertaking, EIOPA **shall**, at the request of any relevant authority assist the authorities in reaching an agreement in accordance with Article 19(1) of Regulation (EU) No 1094/2010.

Or. en

Amendment 699
Stéphanie Yon-Courtin, Gilles Boyer

Proposal for a directive
Article 1 – paragraph 1 – point 58
Directive 2009/138/EC
Article 152b – paragraph 5

Text proposed by the Commission

5. Where two or more relevant authorities of a collaboration platform disagree about the procedure or content of an action to be taken, or inaction, in relation to an insurance or reinsurance undertaking, EIOPA **may, at the request of any relevant authority or on its own initiative**, assist the authorities in reaching an agreement in accordance with Article 19(1) of Regulation (EU) No 1094/2010.

Amendment

5. Where two or more relevant authorities of a collaboration platform disagree about the procedure or content of an action to be taken, or inaction, in relation to an insurance or reinsurance undertaking, EIOPA **shall** assist the authorities in reaching an agreement in accordance with Article 19(1) of Regulation (EU) No 1094/2010.

Or. en

Justification

The use of collaboration platforms in these cases should be mandatory in order to ensure an effective supervision in the Union.

Amendment 700
Henrike Hahn
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 58
Directive 2009/138/EC
Article 152b – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. In case the supervisory authorities concerned fail to reach a common view in the collaboration platform within a time limit established by EIOPA, EIOPA may, in accordance with Article 16 of Regulation (EU) No 1094/2010 issue a recommendation to the supervisory authority concerned.

Or. en

Amendment 701

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 58

Directive 2009/138/EC

Article 152b – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. *Where the supervisory authority concerned does not comply with that recommendation within two months, it shall state the reasons including the steps it has taken or intends to take in order to address the concerns of the other supervisory authorities involved. EIOPA shall assess those steps and decide whether they are sufficient and appropriate. In case they are not deemed appropriate, EIOPA shall make its recommendation public, including the name of the undertaking(s) concerned, with those reasons and proposed steps.*

Or. en

Amendment 702

Frances Fitzgerald

Proposal for a directive

Article 1 – paragraph 1 – point 58

Directive 2009/138/EC

Article 152b – paragraph 6

Text proposed by the Commission

Amendment

6. In the event of disagreement within the platform and where there are serious concerns about negative effects on policyholders or about the content of an action or inaction to be taken in relation to an insurance or reinsurance undertaking, ***EIOPA may decide, on its own initiative,***

6. In the event of disagreement within the ***collaboration*** platform and where there are serious concerns about negative effects on policyholders or about the content of an action or inaction to be taken in relation to an insurance or reinsurance undertaking, ***a concerned supervisory authority may***

to initiate and coordinate on-site inspections. ***It shall invite*** the supervisory authority of the home Member State ***as well as other relevant*** supervisory authorities of the collaboration platform to participate in those on-site inspections.;

request the supervisory authority of the home Member State to initiate and coordinate ***joint*** on-site inspections. The supervisory authority of the home Member State ***shall invite all concerned*** supervisory authorities of the collaboration platform to ***contribute to and*** participate in those ***joint*** on-site inspections.;

Or. en

Amendment 703
Christophe Hansen

Proposal for a directive
Article 1 – paragraph 1 – point 59
Directive 2009/138/EC
Article 153 – paragraph 1

Text proposed by the Commission

The supervisory authority of the host Member State may require the information which it is entitled to request with regard to the business of an insurance undertaking operating in the territory of that Member State ***either*** from the supervisory authority of the home Member State of that ***undertaking or from the insurance*** undertaking. That information shall be supplied within a reasonable period of time ***in the official language or languages of the host Member State, or*** in another language accepted by the supervisory authority of the host Member State. ***Where the supervisory authority of the host Member State addresses the insurance undertaking directly, it shall inform the supervisory authority of the home Member State about the information request.***;

Amendment

The supervisory authority of the host Member State may require the information which it is entitled to request with regard to the business of an insurance undertaking operating in the territory of that Member State from the supervisory authority of the home Member State of that undertaking. That information shall be supplied within a reasonable period of time ***and, if requested, the home supervisor will make a reasonable attempt to provide*** in another language accepted by the supervisory authority of the host Member State, ;

Or. en

Amendment 704
Frances Fitzgerald

Proposal for a directive
Article 1 – paragraph 1 – point 59
Directive 2009/138/EC
Article 153 – paragraph 1

Text proposed by the Commission

The supervisory authority of the host Member State may require the information which it is entitled to request with regard to the business of an insurance undertaking operating in the territory of that Member State *either* from the supervisory authority of the home Member State of that ***undertaking or from the insurance*** undertaking. That information shall be supplied within a reasonable period of time in the official language or languages of the host Member State, or in another language accepted by the supervisory authority of the host Member State. ***Where the supervisory authority of the host Member State addresses the insurance undertaking directly, it shall inform*** the supervisory authority of the home Member State ***about the information request.***;

Amendment

The supervisory authority of the host Member State may require the information which it is entitled to request with regard to the business of an insurance undertaking operating in the territory of that Member State from the supervisory authority of the home Member State of that undertaking. That information shall be supplied within a reasonable period of time in the official language or languages of the host Member State, or in another language accepted by the supervisory authority of the host Member State. The supervisory authority of the home Member State ***shall notify all concerned supervisory authorities on the collaboration platform;***

Or. en

Amendment 705
Stéphanie Yon-Courtin, Gilles Boyer

Proposal for a directive
Article 1 – paragraph 1 – point 59
Directive 2009/138/EC
Article 153 – paragraph 1

Text proposed by the Commission

The supervisory authority of the host Member State may require the information which it is entitled to request with regard to the business of an insurance undertaking operating in the territory of that Member

Amendment

The supervisory authority of the host Member State may require the information which it is entitled to request with regard to the business of an insurance undertaking operating in the territory of that Member

State either from the supervisory authority of the home Member State of that undertaking or from the insurance undertaking. That information shall be supplied within a reasonable period of time in the official language or languages of the host Member State, or in another language accepted by the supervisory authority of the host Member State. Where the supervisory authority of the host Member State addresses the insurance undertaking directly, it shall inform the supervisory authority of the home Member State about the information request.;

State either from the supervisory authority of the home Member State of that undertaking or, ***where the home supervisor fails to provide a response within two weeks***, from the insurance undertaking. That information shall be supplied within a reasonable period of time in the official language or languages of the host Member State, or in another language accepted by the supervisory authority of the host Member State. Where the supervisory authority of the host Member State addresses the insurance undertaking directly, it shall inform the supervisory authority of the home Member State about the information request.;

Or. en

Justification

In order to ensure an effective supervision in the Union, supervisors should be able to ask information directly to the insurance or reinsurance undertaking.

Amendment 706 **Frances Fitzgerald**

Proposal for a directive
Article 1 – paragraph 1 – point 60
Directive 2009/138/EC
Article 159a

Text proposed by the Commission

(60) *[...]*

Amendment

deleted

Or. en

Amendment 707 **Eero Heinäluoma, Aurore Lalucq**

Proposal for a directive
Article 1 – paragraph 1 – point 60
Directive 2009/138/EC
Article 159a – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

1. The supervisory authority of the home Member State shall, upon the request of the supervisory authority of a host Member State, submit all of the following information received in accordance with Article 35, in relation to insurance or reinsurance undertakings with significant cross-border activities in the territory of that host Member State:

Amendment

1. The supervisory authority of the home Member State shall, upon the request of the supervisory authority of a host Member State, submit ***within a month following the request***, all of the following information received in accordance with Article 35, in relation to insurance or reinsurance undertakings with significant cross-border activities in the territory of that host Member State:

Or. en

Amendment 708

Stéphanie Yon-Courtin, Gilles Boyer

Proposal for a directive

Article 1 – paragraph 1 – point 60

Directive 2009/138/EC

Article 159a – paragraph 1 – subparagraph 2

Text proposed by the Commission

For the purposes of this Article, ‘significant cross-border activities’ means insurance and reinsurance activities carried out under the right of establishment and those carried out under the freedom to provide services in a Member State ***for which the annual gross written premium exceeds 5 % of the annual gross written premium of the undertaking, measured with reference to the last available financial statements of the undertaking.***

Amendment

For the purposes of this Article, ‘significant cross-border activities’ means insurance and reinsurance activities carried out under the right of establishment and those carried out under the freedom to provide services in a Member State ***as defined in Article 33a (new).***

Or. en

Justification

In order to be effective, supervision in the Union should be strengthened in the case of significant cross-border supervision.

Amendment 709
Christophe Hansen

Proposal for a directive
Article 1 – paragraph 1 – point 60
Directive 2009/138/EC
Article 159a – paragraph 1 – subparagraph 2

Text proposed by the Commission

For the purposes of this Article, ‘significant cross-border activities’ means insurance and reinsurance activities carried out under the right of establishment and those carried out under the freedom to provide services in a Member State *for which the annual gross written premium exceeds 5 % of the annual gross written premium of the undertaking, measured with reference to the last available financial statements of the undertaking.*

Amendment

For the purposes of this Article, ‘significant cross-border activities’ means insurance and reinsurance activities carried out under the right of establishment and those carried out under the freedom to provide services in a Member State, *as established following an assessment under the proportionality principle.*

Or. en

Amendment 710
Christophe Hansen

Proposal for a directive
Article 1 – paragraph 1 – point 60
Directive 2009/138/EC
Article 159a – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Where an insurance or reinsurance undertaking does not comply with or is likely not to comply with the Minimum Capital Requirement in the following three months, *or where there is a significant non-compliance with the Solvency Capital Requirement*, and in the absence of appropriate measures by the supervisory authority of the home Member State to appropriately remedy such situation, the supervisory authority of the host Member State in which that undertaking has significant cross-border activities, may

Amendment

2. Where an insurance or reinsurance undertaking does not comply with or is likely not to comply with the Minimum Capital Requirement in the following three months, and in the absence of appropriate measures by the supervisory authority of the home Member State to appropriately remedy such situation, the supervisory authority of the host Member State in which that undertaking has significant cross-border activities, may request *to assist in the preparation of a non-site inspection with* the supervisory authority

request the supervisory authority of the home Member State *to carry out jointly an on-site inspection of the insurance or reinsurance undertaking, explaining the reasons for such a request.*

of the home Member State.

Or. en

Amendment 711

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 60

Directive 2009/138/EC

Article 159a – paragraph 3 – subparagraph 2

Text proposed by the Commission

After the conclusion of the joint on-site inspection, the supervisory authorities concerned shall reach joint conclusions within two months. The supervisory authority of the home Member State shall take into account such joint conclusions when deciding on the adequate supervisory responses.

Amendment

After the conclusion of the joint on-site inspection, the supervisory authorities concerned shall reach joint conclusions, ***including the recommended supervisory actions***, within two months. The supervisory authority of the home Member State shall take into account such joint conclusions when deciding on the adequate supervisory responses.

Or. en

Amendment 712

Christophe Hansen

Proposal for a directive

Article 1 – paragraph 1 – point 60

Directive 2009/138/EC

Article 159a – paragraph 3 – subparagraph 3

Text proposed by the Commission

Where the supervisory authorities disagree on the conclusions of the ***joint*** on-site inspection, either of them may, within two ***month*** following the expiry of the period

Amendment

Where the supervisory authorities disagree on the conclusions of the on-site inspection, either of them may, within two ***months*** following the expiry of the period

referred to in the second subparagraph , and without prejudice to the supervisory actions and powers to be taken by the supervisory authority of the home Member State to address ***the non-compliance with the Solvency Capital Requirement or the non-compliance or*** likely non-compliance with the Minimum Capital Requirement, refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010. The matter shall not be referred to EIOPA after the expiry of the two-month period referred to in this subparagraph nor after an agreement on joint conclusions has been reached between supervisory authorities in accordance with the second subparagraph.

referred to in the second subparagraph , and without prejudice to the supervisory actions and powers to be taken by the supervisory authority of the home Member State to address likely non-compliance with the Minimum Capital Requirement, refer the matter to EIOPA and request its assistance in accordance with Article 19 of Regulation (EU) No 1094/2010. The matter shall not be referred to EIOPA after the expiry of the two-month period referred to in this subparagraph nor after an agreement on joint conclusions has been reached between supervisory authorities in accordance with the second subparagraph.

Or. en

Amendment 713
Christophe Hansen

Proposal for a directive
Article 1 – paragraph 1 – point 60
Directive 2009/138/EC
Article 159a – paragraph 3 – subparagraph 4

Text proposed by the Commission

If, within the two-month period referred to in the third subparagraph, any of the supervisory authorities concerned has referred the matter to EIOPA in accordance with Article 19 of Regulation (EU) No 1094/2010, the supervisory authority of the home Member State shall defer the adoption of the final conclusions of the joint on-site inspection and await any decision that EIOPA may take in accordance with Article 19(3) of that Regulation, and shall adopt the conclusions in conformity with EIOPA's decision. All supervisory authorities concerned shall recognise those conclusions as determinative.

Amendment

deleted

Amendment 714
Engin Eroglu

Proposal for a directive
Article 1 – paragraph 1 – point 60 a (new)
Directive 2009/138/EC
Article 186 – paragraph 1

Text proposed by the Commission

Amendment

(60a) in paragraph 1 of Article 186, the following subparagraphs are added:

‘The right of cancellation shall expire no later than twelve months after the cancellation period provided for in the first subparagraph expired.

If the insurance undertaking has provided the policyholder with the information required for the commencement of the cancellation period within twelve months from the day referred to in the first subparagraph, pursuant to the first subparagraph, the cancellation period shall commence on the day upon which the policyholder receives that information.’

Or. en

Justification

The lack of a fixed termination period of the cancellation right in the Directive has led to the problem of the ‘eternal cancellation right’ which is a source of substantial legal uncertainty, and, in some markets, already a major cause for litigation. If the insurance undertaking cannot prove the receipt of the information on the cancellation right by the customer or if the information is held to be incorrect, the cancellation right remains active without limit. For life insurance contracts, which run over several decades, this situation leads to significant uncertainty. The European Court of Justice has repeatedly held that attempts to limit the ‘eternal cancellation right’ at a national level are barred by the primacy of European law (e.g. Judgment of 19 December 2013, C-209/12 – Endress). The amendment is also in line with more recent legislation such as the Consumer Rights Directive. The period of 12 months is proportionate, allowing customers who wish to rescind the contract enough time to do so.

Amendment 715
Othmar Karas

Proposal for a directive

Article 1 – paragraph 1 – point 61 – point a – point iv

Directive 2009/138/EC

Article 212 – paragraph 1 – point f

Text proposed by the Commission

(f) ‘insurance holding company’ means a parent undertaking **which** is not a mixed financial holding company **and** the main business of **which is** to acquire and hold participations in subsidiary undertakings, **where those subsidiary undertakings are exclusively or mainly insurance or reinsurance undertakings, or third-country insurance or reinsurance undertakings, at least one of such subsidiary undertakings being an insurance or reinsurance undertaking; the subsidiary undertakings are mainly insurance or reinsurance undertakings or third-country insurance or reinsurance undertakings where more than 50 % of the parent** undertaking’s equity, consolidated assets, revenues, personnel **or** other indicator considered relevant by the supervisory authority **are associated with subsidiaries that are insurance or reinsurance undertakings, third-country insurance or reinsurance undertakings insurance holding companies or mixed financial holding companies;;**

Amendment

(f) ‘insurance holding company’ means **undertaking fulfilling all of the following conditions:**

(a) the undertaking is a parent undertaking;

(b) the undertaking is not a regulated undertaking, unless it is an asset management company or an alternative investment fund manager within the meaning of Article 2, points (5) and (5a) of Directive 2002/87/EC;

(c) the undertaking is not a mixed financial holding company or a financial holding company within the meaning of Article 4, point (20), of Regulation (EU)

No 575/2013;

(d) at least one subsidiary of that undertaking is an insurance or reinsurance undertaking;

(e) notwithstanding its own stated corporate purpose the main business of the undertaking is any of the following:

(i) to acquire and hold participations in insurance or reinsurance undertakings;

(ii) to provide ancillary services to the principal activity of one or several related insurance or reinsurance undertakings;

(iii) to pursue one or more of the activities listed in points 2 to 12 and point 15 of Annex I to Directive 2013/36/EU, or to pursue one or more of the services or activities listed in Annex I, Section 1 or B, to Directive 2014/65/EU of the European Parliament and of the Council in relation to financial instruments listed in Section C of that Annex to that Directive.;

(f) more than 50 % of at least one of the following indicators are associated, on a steady basis, with subsidiaries that are insurance or reinsurance undertakings, third-country insurance or reinsurance undertakings, insurance holding companies or mixed financial holding companies, third-country insurance holding companies or undertakings which provide services that are ancillary to the principal activity of one or several insurance or reinsurance undertakings of the group, as well as with activities performed by the undertaking itself that are not related to the acquisition or holding of participations in subsidiary undertakings that are insurance or reinsurance undertakings, or third-country insurance or reinsurance undertakings, when those activities are of the same nature as the ones performed by insurance or reinsurance undertakings:

(i) the undertaking's equity on the basis of its consolidated position;

(ii) the undertaking's assets on the basis of its consolidated position;

(iii) the undertaking's revenues on the basis of its consolidated position;

(iv) the undertaking's personnel on the basis of its consolidated position;

(v) other indicator considered relevant by the national supervisory authority;';

For the purposes of this Title, undertakings that are subject to supervision under the law of the Member State by the supervisory authority within the meaning of Article 13(10), with no authorization in accordance with Article 14 and no provision of ancillary services related to the business of insurance or reinsurance shall not be considered as 'insurance holding company'.

Or. en

Justification

Recent events have highlighted the need to clarify the provisions on prudential consolidation to ensure that financial groups that are headed by fintech companies or include, in addition to insurance or reinsurance undertakings, other entities that engage directly or indirectly in financial activities are subject to consolidated supervision. To that end, the definition of an insurance holding company should be amended and clarified in line with the Council compromise, taking into account similar amendments brought to the definition of a financial holding company referred to in Article 4, paragraph 1, point (20) of Regulation (EU) No 575/2013 for the banking sector.

Amendment 716

Johan Van Overtveldt

Proposal for a directive

Article 1 – paragraph 1 – point 61 – point c

Directive 2009/138/EC

Article 212 – paragraphs 3 to 6

Text proposed by the Commission

Amendment

(c) [...]

deleted

Or. en

Justification

The EC proposal extends group supervision beyond insurance activities of groups to other activities such as banking, thus creating an overlap between activities of banking supervisors and insurance supervisors and resulting in unnecessarily complex supervision. The proposal to segregate key functions between insurance and other activities moreover defeats the whole purpose of bancassurance groups. It is therefore suggested to delete these provisions. It would be better to deal with any changes to group supervision in the context of the Financial Conglomerates Directive.

Amendment 717

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 61 – point c

Directive 2009/138/EC

Article 212 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where the undertakings referred to in the first subparagraph do not have their head office in the same Member State, Member States shall ensure that only the national supervisory authority acting as group supervisor in accordance with Article 247 may conclude, after consulting other supervisory authorities concerned, that such undertakings form a group based on its opinion that those undertakings are managed on a unified basis.

Or. en

Amendment 718

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 61 – point c

Directive 2009/138/EC

Article 212 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where the undertakings referred to in the first subparagraph do not have their head office in the same Member State, Member States shall ensure that only the national supervisory authority acting as group supervisor in accordance with Article 247 may conclude, after consulting other supervisory authorities concerned, that such undertakings form a group based on its opinion that those undertakings are managed on a unified basis.

Or. en

Amendment 719

Stéphanie Yon-Courtin, Gilles Boyer

Proposal for a directive

Article 1 – paragraph 1 – point 61 – point c

Directive 2009/138/EC

Article 212 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where the undertakings referred to in the first subgraph do not have their head office in the same Member State, Member States shall ensure that only national supervisory authority acting as group supervisor in accordance with Article 247 may conclude, after consulting other supervisory authorities concerned, that such undertaking form a group based on its opinion that those undertakings are managed on a unified basis.

Or. en

Amendment 720

Stéphanie Yon-Courtin, Gilles Boyer

Proposal for a directive
Article 1 – paragraph 1 – point 61 – point c
Directive 2009/138/EC
Article 212 – paragraph 5 – point c a (new)

Text proposed by the Commission

Amendment

(ca) evidence of coordinated and consistent strategies, operations or processes between two or more undertakings, including in relation to insurance distribution channels, insurance products or brands, communication or marketing.

Or. en

Amendment 721
Henrike Hahn
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 61 – point c
Directive 2009/138/EC
Article 212 – paragraph 5 – point c a (new)

Text proposed by the Commission

Amendment

(ca) evidence of coordinated and consistent strategies, operations or processes between two or more undertakings, including in relation to insurance distribution channels, insurance products or brands, communication or marketing.

Or. en

Amendment 722
Eero Heinäluoma, Aurore Lalucq

Proposal for a directive
Article 1 – paragraph 1 – point 61 – point c
Directive 2009/138/EC
Article 212 – paragraph 5 a (new)

5a. *In order to ensure consistent application of this Article, EIOPA shall develop regulatory technical standards to supplement or further specify the factors that supervisory authorities shall consider to identify a relationship between at least two undertakings referred to in paragraphs 2 and 3 of this Article.*

EIOPA shall submit those draft regulatory technical standards to the Commission by 12 months after entry into force].

Power is conferred on the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.

Or. en

Amendment 723

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 61 – point c

Directive 2009/138/EC

Article 212 – paragraph 6 – subparagraph 1 (new)

Text proposed by the Commission

6. Where the group fails to designate a parent undertaking in accordance with paragraph 3, second subparagraph, the supervisory authorities **shall** designate a parent undertaking which is to be responsible for complying with this Title. The other undertakings in such group shall be considered as subsidiary undertakings.

Amendment

6. Where the group fails to designate a parent undertaking in accordance with paragraph 3, second subparagraph, the supervisory **authority acting as group supervisor in accordance with Article 247 shall, after having consulted all other supervisory authorities concerned,** designate a parent undertaking which is to be responsible for complying with this Title. The other undertakings in such group shall be considered as subsidiary undertakings.

Amendment 724
Stéphanie Yon-Courtin, Gilles Boyer

Proposal for a directive
Article 1 – paragraph 1 – point 61 – point c
Directive 2009/138/EC
Article 212 – paragraph 6 – subparagraph 1

Text proposed by the Commission

6. Where the group fails to designate a parent undertaking in accordance with paragraph 3, second subparagraph, the supervisory **authorities** shall designate a parent undertaking which is to be responsible for complying with this Title. The other undertakings in such group shall be considered as subsidiary undertakings.

Amendment

6. Where the group fails to designate a parent undertaking in accordance with paragraph 3, second subparagraph, the supervisory **authority acting as the group supervisor in accordance with Article 247** shall designate, **after consulting other supervisory authorities concerned**, a parent undertaking which is to be responsible for complying with this Title. The other undertakings in such group shall be considered as subsidiary undertakings.

Amendment 725
Henrike Hahn
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 61 – point c
Directive 2009/138/EC
Article 212 – paragraph 6 – subparagraph 2 – introductory part

Text proposed by the Commission

When designating in accordance with the first subparagraph, supervisory **authorities** shall consider the following factors:

Amendment

When designating **a parent undertaking** in accordance with the first subparagraph, **the supervisory authority acting as group supervisor** shall consider the following factors:

Amendment 726

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 61 – point c

Directive 2009/138/EC

Article 212 – paragraph 6 – subparagraph 3

Text proposed by the Commission

Supervisory **authorities** shall regularly assess whether the designation remains appropriate. Where this is not the case, the supervisory **authorities** shall designate another parent undertaking. That other **authority** shall be responsible for complying with this Title.;

Amendment

The supervisory **authority acting as group supervisor** shall regularly assess whether the designation remains appropriate. Where this is not the case, the supervisory **authority acting as group supervisor** shall designate another parent undertaking. That other **undertaking** shall be responsible for complying with this Title.;

Or. en

Amendment 727

Johan Van Overtveldt

Proposal for a directive

Article 1 – paragraph 1 – point 62 – point c

Directive 2009/138/EC

Article 213 – paragraphs 3a to 3c

Text proposed by the Commission

(c) [...]

Amendment

deleted

Or. en

Justification

The EC proposal extends group supervision beyond insurance activities of groups to other activities such as banking, thus creating an overlap between activities of banking supervisors and insurance supervisors and resulting in unnecessarily complex supervision. The proposal to segregate key functions between insurance and other activities moreover defeats the whole purpose of bancassurance groups. It is therefore suggested to delete these provisions. It would be better to deal with any changes to group supervision in the context of the Financial Conglomerates Directive.

Amendment 728

Stéphanie Yon-Courtin, Gilles Boyer

Proposal for a directive

Article 1 – paragraph 1 – point 62 – point c

Directive 2009/138/EC

Article 213 – paragraph 3b – subparagraph 2

Text proposed by the Commission

Where the conditions set out in paragraph 3a, point (b), are not satisfied, the insurance holding company or mixed financial holding company shall be subject to appropriate supervisory measures by the group supervisor to ensure or restore, as the case may be, continuity and integrity of group supervision and compliance with the requirements laid down in this Title. In particular, Member States shall ensure that supervisory authorities have the power to require the insurance holding company or mixed financial holding company to structure the group in a way which enables the relevant supervisory authority to effectively exercise group supervision. Such a power shall only be exercised in exceptional circumstances, after consulting EIOPA and, where applicable, other supervisory authorities concerned and shall be duly justified to the group.

Amendment

Where the conditions set out in paragraph 3a, point (b), are not satisfied, the insurance holding company or mixed financial holding company shall be subject to appropriate supervisory measures by the group supervisor to ensure or restore, as the case may be, continuity and integrity of group supervision and compliance with the requirements laid down in this Title. In particular, Member States shall ensure that supervisory authorities *when acting as group supervisors in accordance with Article 247* have the power to require the insurance holding company or mixed financial holding company to structure the group in a way which enables the relevant supervisory authority to effectively exercise group supervision. Such a power shall only be exercised in exceptional circumstances, after consulting EIOPA and, where applicable, other supervisory authorities concerned and shall be duly justified to the group.

Or. en

Amendment 729

Frances Fitzgerald

Proposal for a directive

Article 1 – paragraph 1 – point 63

Directive 2009/138/EC

Article 213a – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) business underwritten by insurance and reinsurance undertakings in the scope of the group which have their head offices in Member States other than the Member State of the group supervisor is not higher than 5 % of the total annual gross written premium of the group;

deleted

Or. en

Amendment 730

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 63

Directive 2009/138/EC

Article 213a – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) business underwritten by insurance and reinsurance undertakings in the scope of the group which have their head offices in Member States other than the Member State of the group supervisor is not higher than 5 % of the total annual gross written premium of the group;

(c) business underwritten by **all** insurance and reinsurance undertakings in the scope of the group which have their head offices in Member States other than the Member State of the group supervisor is not higher **in aggregate** than 5 % of the total annual gross written premium of the group;

Or. en

Amendment 731

Frances Fitzgerald

Proposal for a directive

Article 1 – paragraph 1 – point 63

Directive 2009/138/EC

Article 213a – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) business underwritten by the group in Member States other than the Member State of the group supervisor is not higher than 5 % of its total annual gross written premium;

deleted

Or. en

Amendment 732

Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point 63

Directive 2009/138/EC

Article 213a – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) investments in non-traditional investments do not represent more than 20% of total investments;

(e) investments in non-traditional investments do not represent more than 30% of total investments;

Or. en

Amendment 733

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 63

Directive 2009/138/EC

Article 213a – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) The group Solvency Capital Requirement is complied with and a capital add on has not been set;

Or. en

Amendment 734

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 63

Directive 2009/138/EC

Article 213a – paragraph 1 – point f b (new)

Text proposed by the Commission

Amendment

(fb) The group has not been convicted or been under investigations for committing or permitting money laundering or terrorist financing activities as defined in [insert reference to AMLD]

Or. en

Amendment 735

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 63

Directive 2009/138/EC

Article 213a – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The following groups shall never be classified as small and non-complex groups:

(a) groups which are financial conglomerates within the meaning of Article 2, point 14 of Directive 2002/87/EC;

(b) groups where at least one subsidiary undertaking is an undertaking referred to in Article 228(1).

Or. en

Amendment 736

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 64 – point a

Directive 2009/138/EC

Article 214 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

For the sole purpose of ensuring compliance with this Title, the exercise of group supervision may imply direct supervision and the exercise of supervisory powers over insurance holding companies and mixed financial holding companies by supervisory authorities.

Or. en

Amendment 737

Agnès Evren

Proposal for a directive

Article 1 – paragraph 1 – point 64 – point b

Directive 2009/138/EC

Article 214 – paragraph 2 – subparagraph 2 – point ii

Text proposed by the Commission

Amendment

(ii) the exclusion of the undertaking from the scope of group supervision would have no material impact on the group solvency; ***deleted***

Or. fr

Amendment 738

Carlo Calenda

Proposal for a directive

Article 1 – paragraph 1 – point 64 – point b

Directive 2009/138/EC

Article 214 – paragraph 2 – subparagraph 2 – point ii

Text proposed by the Commission

Amendment

(ii) the exclusion of the undertaking from the scope of group supervision would have no material impact on the group solvency; *deleted*

Or. en

Amendment 739

Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive

Article 1 – paragraph 1 – point 64 – point b

Directive 2009/138/EC

Article 214 – paragraph 2 – subparagraph 2 – point ii

Text proposed by the Commission

Amendment

(ii) the exclusion of the undertaking from the scope of group supervision would have no material impact on the group solvency; *deleted*

Or. en

Amendment 740

Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point 64 – point b

Directive 2009/138/EC

Article 214 – paragraph 2 – subparagraph 2 – point ii

Text proposed by the Commission

Amendment

(ii) the exclusion of the undertaking from the scope of group supervision would have no material impact on the group solvency; *deleted*

Or. en

Amendment 741
Elisabetta Gualmini

Proposal for a directive
Article 1 – paragraph 1 – point 64 – point c
Directive 2009/138/EC
Article 214 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Before excluding the ultimate parent undertaking from group supervision pursuant to paragraph 2, point (b), the group supervisor shall consult EIOPA, and where applicable, other supervisory authorities concerned, and shall assess the impact of exercising group supervision at the level of an intermediate participating undertaking on the solvency position of the group. In particular, such an exclusion shall not be possible if it would result in a material improvement in the solvency position of the group.;

Amendment

Before excluding the ultimate parent undertaking from group supervision pursuant to paragraph 2, point (b), the group supervisor shall consult EIOPA, and where applicable, other supervisory authorities concerned, and shall assess the impact of exercising group supervision at the level of an intermediate participating undertaking on the solvency position of the group. In particular, such an exclusion shall not be possible if it would result in a material improvement in the solvency position of the group, ***unless all the following conditions are met:***

- (i) the by-laws of ultimate parent undertaking expressly preclude such undertaking from performing direction and coordination of its subsidiaries;***
- (ii) an intermediate entity is proven to actively manage the insurance activities in the group;***

Or. en

Amendment 742
Carlo Calenda

Proposal for a directive
Article 1 – paragraph 1 – point 64 – point c
Directive 2009/138/EC
Article 214 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Before excluding the ultimate parent undertaking from group supervision

Amendment

Before excluding the ultimate parent undertaking from group supervision

pursuant to paragraph 2, point (b), the group supervisor shall consult EIOPA, and where applicable, other supervisory authorities concerned, and shall assess the impact of exercising group supervision at the level of an intermediate participating undertaking on the solvency position of the group. ***In particular, such an exclusion shall not be possible if it would result in a material improvement in the solvency position of the group.;***

pursuant to paragraph 2, point (b), the group supervisor shall consult EIOPA, and where applicable, other supervisory authorities concerned, and shall assess the impact of exercising group supervision at the level of an intermediate participating undertaking on the solvency position of the group.

Or. en

Amendment 743

Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point 64 – point c

Directive 2009/138/EC

Article 214 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Before excluding the ultimate parent undertaking from group supervision pursuant to paragraph 2, point (b), the group supervisor shall consult EIOPA, and where applicable, other supervisory authorities concerned, and shall assess the impact of exercising group supervision at the level of an intermediate participating undertaking on the solvency position of the group. ***In particular, such an exclusion shall not be possible if it would result in a material improvement in the solvency position of the group.;***

Amendment

Before excluding the ultimate parent undertaking from group supervision pursuant to paragraph 2, point (b), the group supervisor shall consult EIOPA, and where applicable, other supervisory authorities concerned, and shall assess the impact of exercising group supervision at the level of an intermediate participating undertaking on the solvency position of the group.

Or. en

Amendment 744

Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive

Article 1 – paragraph 1 – point 64 – point c

Directive 2009/138/EC
Article 214 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Before excluding the ultimate parent undertaking from group supervision pursuant to paragraph 2, point (b), the group supervisor shall consult EIOPA, and where applicable, other supervisory authorities concerned, and shall assess the impact of exercising group supervision at the level of an intermediate participating undertaking on the solvency position of the group. ***In particular, such an exclusion shall not be possible if it would result in a material improvement in the solvency position of the group.;***

Amendment

Before excluding the ultimate parent undertaking from group supervision pursuant to paragraph 2, point (b), the group supervisor shall consult EIOPA, and where applicable, other supervisory authorities concerned, and shall assess the impact of exercising group supervision at the level of an intermediate participating undertaking on the solvency position of the group.

Or. en

Amendment 745

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 64 – point c

Directive 2009/138/EC

Article 214 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Before excluding the ultimate parent undertaking from group supervision pursuant to paragraph 2, point (b), the group supervisor shall consult EIOPA, and where applicable, other supervisory authorities concerned, and shall assess the impact of exercising group supervision at the level of an intermediate participating undertaking on the solvency position of the group. In particular, such an exclusion shall not be possible if it would result in a material improvement in the solvency position of the group.;

Amendment

Before excluding the ultimate parent undertaking from group supervision pursuant to paragraph 2, point (b), the group supervisor shall consult EIOPA, and where applicable, other supervisory authorities concerned, and shall assess the impact of exercising group supervision at the level of an intermediate participating undertaking on the solvency position of the group. In particular, such an exclusion shall not be possible if it would result in a material improvement in the solvency position of the group. ***The group supervisor shall also reassess at least annually whether its decision remains***

appropriate.

Or. en

Amendment 746

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 64 – point c

Directive 2009/138/EC

Article 214 – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

In order to enhance a coherent and consistent application of this paragraph, EIOPA shall issue guidelines in accordance with Article 16 of Regulation (EU) No 1094/2010 to further specify the exceptional circumstances referred to in the first subparagraph of this paragraph or the cases where it may be justified to exclude the ultimate parent undertaking, including insurance holding companies, from the scope of group supervision.

Or. en

Amendment 747

Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive

Article 1 – paragraph 1 – point 70

Directive 2009/138/EC

Article 228 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Irrespective of the method used in accordance with Article 220 of this Directive, for the purpose of calculating the group solvency, the participating insurance or reinsurance undertaking shall take into account the contribution to the group

1. Irrespective of the method used in accordance with Article 220 of this Directive, for the purpose of calculating the group solvency, *when participations in related undertakings from other financial sectors represent 20% or more of the*

eligible own funds and to the group Solvency Capital Requirement of the following undertakings:

voting rights or capital of the undertakings, the participating insurance or reinsurance undertaking shall take into account the contribution to the group eligible own funds and to the group Solvency Capital Requirement of the following undertakings:

Or. en

Amendment 748

Fabio Massimo Castaldo

Proposal for a directive

Article 1 – paragraph 1 – point 70

Directive 2009/138/EC

Article 228 – paragraph 1 – introductory part

Text proposed by the Commission

1. Irrespective of the method used in accordance with Article 220 of this Directive, for the purpose of calculating the group solvency, the participating insurance or reinsurance undertaking shall take into account the contribution to the group eligible own funds and to the group Solvency Capital Requirement of the following undertakings:

Amendment

1. Irrespective of the method used in accordance with Article 220 of this Directive, for the purpose of calculating the group solvency, ***when participations in related undertakings from other financial sectors represent 20 % or more of the voting rights or capital of the undertaking***, the participating insurance or reinsurance undertaking shall take into account the contribution to the group eligible own funds and to the group Solvency Capital Requirement of the following undertakings:

Or. en

Amendment 749

Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point 70

Directive 2009/138/EC

Article 228 – paragraph 1 – introductory part

Text proposed by the Commission

1. Irrespective of the method used in accordance with Article 220 of this Directive, for the purpose of calculating the group solvency, the participating insurance or reinsurance undertaking shall take into account the contribution to the group eligible own funds and to the group Solvency Capital Requirement of the following undertakings:

Amendment

1. Irrespective of the method used in accordance with Article 220 of this Directive, for the purpose of calculating the group solvency, ***when participations in related undertakings from other financial sectors represent 20% or more of the voting rights or capital of the undertaking***, the participating insurance or reinsurance undertaking shall take into account the contribution to the group eligible own funds and to the group Solvency Capital Requirement of the following undertakings:

Or. en

Amendment 750

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 70

Directive 2009/138/EC

Article 228 – paragraph 3 – point g

Text proposed by the Commission

(g) for each related undertaking referred to in paragraph 1, point (e), of this Article, the required solvency margin calculated in accordance with Article ***17b*** of Directive (EU) 2016/2341.

Amendment

(g) for each related undertaking referred to in paragraph 1, point (e), of this Article, the ***higher of the*** required solvency margin calculated in accordance with Article ***17*** of Directive (EU)2016/2341, ***and any capital requirement imposed under national law of the Member State where the undertaking is registered or authorised.***

Or. en

Amendment 751

Elisabetta Gualmini

Proposal for a directive
Article 1 – paragraph 1 – point 70
Directive 2009/138/EC
Article 228 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Notwithstanding paragraphs 1 to 5, the participating undertaking shall apply a capital requirement according to the market risk module approach to its participations in related undertakings from other financial sectors, provided that all the following conditions are met:

(i) the participation represents less than 20% of the capital or voting rights of the related undertaking from other financial sectors;

(ii) the related undertaking from other financial sectors is an entity whose transferable securities are admitted to trading on a regulated market.

Or. en

Justification

This proposal would create a more proportionate and consistent level playing field between insurance-led and banking-led financial groups.

Amendment 752
Antonio Tajani, Herbert Dorfmann, Fulvio Martusciello

Proposal for a directive
Article 1 – paragraph 1 – point 70
Directive (EU) 138/2009
Article 228 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. For participations in related undertakings from other financial sectors different to those referred to in paragraph 1, participating undertakings shall apply a capital requirement according to a market risk module approach.

Amendment 753
Fabio Massimo Castaldo

Proposal for a directive
Article 1 – paragraph 1 – point 70
Directive 2009/138/EC
Article 228 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. For participations in related undertakings from other financial sectors different to those referred to in paragraph 1, participating undertakings shall apply a capital requirement according to a market risk module approach.

Amendment 754
Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive
Article 1 – paragraph 1 – point 70
Directive 2009/138/EC
Article 228 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. For participations in related undertakings from other financial sectors different to those referred to in paragraph 1, participating undertakings shall apply a capital requirement according to a market risk module approach.

Amendment 755
Elisabetta Gualmini

Proposal for a directive
Article 1 – paragraph 1 – point 70
Directive 2009/138/EC
Article 228 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. The Commission shall adopt delegated acts in accordance with Article 301a specifying the market risk module to be applied pursuant to paragraph 5a (new) of this Article.

Or. en

Justification

This proposal would create a more proportionate and consistent level playing field between insurance-led and banking-led financial groups.

Amendment 756
Esther de Lange

Proposal for a directive
Article 1 – paragraph 1 – point 72 – point a
Directive 2009/138/EC
Article 203 – paragraph 1 – subparagraph 4

Text proposed by the Commission

Amendment

Title I, Chapter VI, Section 3, Subsections 1, 2 and 3 and Title I, Chapter VI, Section 4, Subsections 1, 2 and 3 shall apply for the calculation of the own funds eligible for the Solvency Capital Requirement and of the Solvency Capital Requirement at group level based on consolidated data. ***In particular, an own fund item that is issued by a participating undertaking shall not be considered clear of encumbrances within the meaning of Article 93(2), second subparagraph, point (c), if the repayment of this item cannot be refused to its holder when a related insurance or reinsurance undertaking is wound up.;***

Title I, Chapter VI, Section 3, Subsections 1, 2 and 3 and Title I, Chapter VI, Section 4, Subsections 1, 2 and 3 shall apply for the calculation of the own funds eligible for the Solvency Capital Requirement and of the Solvency Capital Requirement at group level based on consolidated data.

Or. en

Justification

This amendment aims to delete the proposals that lead to double counting.

Amendment 757

Markus Ferber

Proposal for a directive

Article 1 – paragraph 1 – point 72 – point b – point i

Directive 2009/138/EC

Article 230 – paragraph 2 – subparagraph 2 – point d

Text proposed by the Commission

Amendment

(d) the proportional share of the notional Minimum Capital Requirement of the insurance holding companies and mixed financial holding companies.; **deleted**

Or. en

Justification

Prevents double counting of requirements.

Amendment 758

Esther de Lange

Proposal for a directive

Article 1 – paragraph 1 – point 72 – point b – point i

Directive 2009/138/EC

Article 230 – paragraph 2 – subparagraph 2 – point d

Text proposed by the Commission

Amendment

(d) the proportional share of the notional Minimum Capital Requirement of the insurance holding companies and mixed financial holding companies.; **deleted**

Or. en

Justification

This amendment aims to delete the proposals that lead to double counting.

Amendment 759
Esther de Lange

Proposal for a directive

Article 1 – paragraph 1 – point 72 – point b – point ii

Directive 2009/138/EC

Article 230 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

(ii) the third subparagraph is replaced by the following: **deleted**

‘

For the purposes of paragraph 2, second subparagraph, point (d), of this Article, the notional Minimum Capital Requirement of an insurance holding company and of a mixed financial holding company shall be equal to 35 % of its notional Solvency Capital Requirement, where the notional Solvency Capital Requirement is calculated in accordance with Article 226(1), second subparagraph.;

’

Or. en

Justification

This amendment aims to delete the proposals that lead to double counting.

Amendment 760
Markus Ferber

Proposal for a directive

Article 1 – paragraph 1 – point 72 – point b – point ii

Directive 2009/138/EC

Article 230 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

(ii) the third subparagraph is replaced by the following: **deleted**

‘
For the purposes of paragraph 2, second subparagraph, point (d), of this Article, the notional Minimum Capital Requirement of an insurance holding company and of a mixed financial holding company shall be equal to 35 % of its notional Solvency Capital Requirement, where the notional Solvency Capital Requirement is calculated in accordance with Article 226(1), second subparagraph.
,

Or. en

Justification

Prevents double counting of requirements.

**Amendment 761
Markus Ferber**

**Proposal for a directive
Article 1 – paragraph 1 – point 72 – point b – point iii
Directive 2009/138/EC
Article 230 – paragraph 2 – subparagraph 4**

Text proposed by the Commission

Amendment

(iii) the fourth subparagraph is deleted; ***deleted***

Or. en

Justification

Prevents double counting of requirements.

**Amendment 762
Esther de Lange**

**Proposal for a directive
Article 1 – paragraph 1 – point 72 – point c**

Text proposed by the Commission

Amendment

(c) the following paragraph 3 is added: **deleted**

‘

3. Participating insurance and reinsurance undertakings shall comply with their minimum consolidated group Solvency Capital Requirement, which is the lowest of the following:

(a) 45 % of the outcome of the calculation referred to in paragraph 1, second subparagraph, point (b);

(b) the outcome of the calculation referred to in paragraph 2, second subparagraph.

That minimum shall be covered by eligible basic own funds as determined in accordance with Article 98(4), and calculated on the basis of consolidated data. For that purpose, holdings in related undertakings referred to in Article 228(1) shall not be included in the consolidated data.

For the purposes of determining whether such eligible own funds qualify to cover the minimum consolidated group Solvency Capital Requirement, the principles set out in Articles 221 to 229 shall apply mutatis mutandis. Article 139(1) and (2) shall apply mutatis mutandis.;

’

Or. en

Justification

This amendment aims to delete the proposals that lead to double counting.

Amendment 763
Esther de Lange

Proposal for a directive
Article 1 – paragraph 1 – point 75
Directive 2009/138/EC
Article 233a – paragraph 3 – subparagraph 2

Text proposed by the Commission

For the purposes of paragraph 1, point (b) (i), of this Article, the **value** of holdings in undertakings referred to in Article 220(3) to which method 2 is applied, **in excess of their own Solvency Capital Requirement, shall be included in the consolidated data when calculating the sensitivity of assets and liabilities to changes in the level or in the volatility of currency exchange rates ('currency risk')**. However, the value of those holdings shall not be assumed to be sensitive to changes in the level or in the volatility of market prices of equities ('equity risk').

Amendment

For the purposes of paragraph 1, point (b) (i), of this Article, the **sensitivity of assets and liabilities to changes in the level or in volatility of currency exchange rates** of holdings in undertakings referred to in Article 220(3) to which method 2 is applied, **is part of the assessment referred to in Article 45 (1)**. The value of those holdings shall not be assumed to be sensitive to changes in the level or in the volatility of market prices of equities ('equity risk').

Or. en

Justification

It is not realistic to expect from international groups that all their surplus capital is held in EUR.

Amendment 764
Johan Van Overtveldt

Proposal for a directive
Article 1 – paragraph 1 – point 75
Directive 2009/138/EC
Article 233a – paragraph 3 – subparagraph 2

Text proposed by the Commission

For the purposes of paragraph 1, point (b) (i), of this Article, the **value** of holdings in undertakings referred to in Article 220(3) to which method 2 is applied, **in excess of their own Solvency Capital Requirement,**

Amendment

For the purposes of paragraph 1, point (b) (i), of this Article, the **sensitivity of assets and liabilities to changes in the level or volatility of currency exchange rates** of holdings in undertakings referred to in

shall be ***included in the consolidated data when calculating the sensitivity of assets and liabilities to changes in the level or in the volatility of currency exchange rates ('currency risk')***. ***However***, the value of those holdings shall not be assumed to be sensitive to changes in the level or in the volatility of market prices of equities ('equity risk').

Article 220(3) to which method 2 is applied, shall be ***part of the assessment referred to in Article 45(1)***. The value of those holdings shall not be assumed to be sensitive to changes in the level or in the volatility of market prices of equities ('equity risk').

Or. en

Justification

The Commission's proposal expects from international insurance and reinsurance groups to hold all their surplus capital (above SCR requirements) in euros, including their surplus capital needed for protection of policy holders outside the EEA. This amendment aims at avoiding a bias towards European policy holders, which would risk harming European policy holders in the longer term as international groups might be further incentivized not to have their ultimate parent company inside the EEA.

Amendment 765 Johan Van Overtveldt

Proposal for a directive

Article 1 – paragraph 1 – point 79

Directive 2009/138/EC

Article 246 – paragraph 1, 2(2), 2(3), 4(1) second sentence and 5

Text proposed by the Commission

Amendment

(79) [...]

deleted

Or. en

Justification

The EC proposal extends group supervision beyond insurance activities of groups to other activities such as banking, thus creating an overlap between activities of banking supervisors and insurance supervisors and resulting in unnecessarily complex supervision. The proposal to expand the Mutatis Mutandis principle to the group level, meaning that the Solvency II risk management, internal control systems and reporting procedures should also be implemented for banking activities, seems to be disproportionate. It is therefore suggested to delete this provision.

Amendment 766

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 79 – point a

Directive 2009/138/EC

Article 246 – paragraph 1 – subparagraph 4

Text proposed by the Commission

The risk management system shall cover at least all insurance and reinsurance activities conducted within the group, as well as material non-insurance activities. It shall also cover the risks stemming from those activities to which the group is or could be exposed, and their interdependencies.

Amendment

The risk management system shall cover at least all insurance and reinsurance activities conducted within the group, as well as material non-insurance activities. It shall also cover the risks stemming from those activities to which the group is or could be exposed, ***including sustainability risks***, and their interdependencies.

Or. en

Amendment 767

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 79 – point c a (new)

Directive 2009/138/EC

Article 246 – paragraph 4 – first sentence (new)

Present text

Member States shall require the participating insurance ***under-taking*** or reinsurance undertaking, the insurance holding company or the mixed financial holding company to undertake at the level of the group the assessment required by ***Article 45***.

Amendment

(ca) in Article 246, the first sentence of paragraph 4 is replaced by the following:

"Member States shall require the participating insurance ***undertaking*** or reinsurance undertaking, the insurance holding company or the mixed financial holding company to undertake at the level of the group the assessment required by ***Articles 45 and 45a***.

"

Or. en

Amendment 768

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 79 – point d

Directive 2009/138/EC

Article 246 – paragraph 5 – subparagraph 4 a (new)

Text proposed by the Commission

Amendment

The participating undertaking shall ensure that those persons have sufficient time and resources to perform all their tasks adequately. A policy on the management of the possible conflict of interests emerging from these situations should be established by the participating undertaking.

Or. en

Amendment 769

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 80

Directive 2009/138/EC

Article 246a – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where the subsidiaries are located in another Member State than the Member State of the participating undertaking, the group supervisor shall transmit the liquidity management plan to the supervisors of the subsidiaries.

Or. en

Amendment 770
Eero Heinäluoma, Aurore Lalucq

Proposal for a directive
Article 1 – paragraph 1 – point 80
Directive 2009/138/EC
Article 246a – paragraph 3

Text proposed by the Commission

3. Notwithstanding paragraph 2, supervisory authorities **may** require an insurance or reinsurance subsidiary to draw up and maintain a liquidity risk management plan at individual level whenever they detect a specific liquidity vulnerability or the liquidity management plan at group level does not include appropriate information which the supervisory authority having authorised the subsidiary requires comparable undertakings to provide for the purpose of monitoring their liquidity position.

Amendment

3. Notwithstanding paragraph 2, supervisory authorities **shall** require an insurance or reinsurance subsidiary to draw up and maintain a liquidity risk management plan at individual level whenever they detect a specific liquidity vulnerability or the liquidity management plan at group level does not include appropriate information which the supervisory authority having authorised the subsidiary requires comparable undertakings to provide for the purpose of monitoring their liquidity position.

Or. en

Amendment 771
Eero Heinäluoma, Aurore Lalucq

Proposal for a directive
Article 1 – paragraph 1 – point 80
Directive 2009/138/EC
Article 246a – paragraph 4 – subparagraph 1

Text proposed by the Commission

4. In order to ensure consistent application of this Article, EIOPA shall develop regulatory technical standards to further specify the content and frequency of update of the liquidity risk management framework plan at group level.

Amendment

4. In order to ensure consistent application of this Article, EIOPA shall develop regulatory technical standards to further specify the content, **the format** and frequency of update of the liquidity risk management framework plan at group level.

Or. en

Amendment 772
Frances Fitzgerald

Proposal for a directive
Article 1 – paragraph 1 – point 82
Directive 2009/138/EC
Article 254 – paragraph 3

Text proposed by the Commission

3. The participating insurance and reinsurance undertaking, the insurance holding company and the mixed financial holding company shall submit to the group supervisor the information referred to in this Article on an annual basis within 20 weeks after the undertaking's financial year end, and, when the information referred to in this Article is required on quarterly basis, within **11** weeks after the end of each quarter.;

Amendment

3. The participating insurance and reinsurance undertaking, the insurance holding company and the mixed financial holding company shall submit to the group supervisor the information referred to in this Article on an annual basis within 20 weeks after the undertaking's financial year end, and, when the information referred to in this Article is required on quarterly basis, within **13** weeks after the end of each quarter.;

Or. en

Amendment 773
Eero Heinäluoma, Aurore Lalucq

Proposal for a directive
Article 1 – paragraph 1 – point 84
Directive 2009/138/EC
Article 256b – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission may adopt delegated acts in accordance with Article 301a to change the deadline laid down in paragraph 1, provided that the change is necessary due to sanitary emergencies, natural catastrophes or other extreme events.

Or. en

Amendment 774
Stéphanie Yon-Courtin, Pascal Durand, Gilles Boyer

Proposal for a directive
Article 1 – paragraph 1 – point 84
Directive 2009/138/EC
Article 256c – paragraph 1

Text proposed by the Commission

1. Member States shall require a participating insurance or reinsurance undertaking, an insurance holding company or a mixed financial holding company of a group, to be subject to an audit the consolidated balance sheet disclosed as part of the group solvency and financial condition report or as part of the single solvency and financial condition report.

Amendment

1. Member States shall require a participating insurance or reinsurance undertaking, an insurance holding company or a mixed financial holding company of a group, to be subject to an audit ***requirement for*** the consolidated balance sheet disclosed as part of the group solvency and financial condition report or as part of the single solvency and financial condition report.

Or. en

Amendment 775
Eero Heinäluoma, Aurore Lalucq

Proposal for a directive
Article 1 – paragraph 1 – point 86 – point b
Directive 2009/138/EC
Article 258 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. EIOPA shall issue guidelines in order to ensure a harmonised application of the measures in paragraph 2b.

Or. en

Amendment 776
Eero Heinäluoma, Aurore Lalucq

Proposal for a directive
Article 1 – paragraph 1 – point 86 – point b
Directive 2009/138/EC
Article 258 – paragraph 2 d (new)

2d. EIOPA shall be empowered to issue recommendations to the supervisory authorities on the following supervisory measures for insurance holding companies and mixed financial holding companies:

(a) suspending the exercise of voting rights attached to the shares of the subsidiary insurance or reinsurance undertaking held by the insurance holding company or mixed financial holding company;

(b) issuing injunctions, sanctions or penalties against the insurance holding company, the mixed financial holding company or the members of the administrative, management or supervisory body of those companies;

(c) giving instructions or directions to the insurance holding company or mixed financial holding company to transfer to its shareholders the participations in its subsidiary insurance and reinsurance undertakings;

(d) designating on a temporary basis another insurance holding company, mixed financial holding company or insurance or reinsurance undertaking within the group as responsible for ensuring compliance with the requirements set out in this Title

(e) restricting or prohibiting distributions or interest payments to shareholders;

(f) requiring insurance holding companies or mixed financial holding companies to divest from or reduce holdings in insurance or reinsurance undertakings or other related undertakings referred to in Article 228(1);

(g) requiring insurance holding companies or mixed financial holding companies to submit a plan on return,

without delay, to compliance.

Supervisory Authorities shall comply with these recommendations.

Or. en

Amendment 777
Chris MacManus

Proposal for a directive
Article 1 – paragraph 1 – point 89 – point c
Directive 2009/138/EC
Article 301a – paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to Article 17, 29, 31, 35, 35b, 37, 50, 56, 75, 86, 92, 97, 99, 109a, 111, 114, 127, 130, 135, 143, 172, 210, 211, 216, 217, 227, 234, 241, 244, 245, 247, 248, 256, 256b, 258, 260 or 308b shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.;

Amendment

5. A delegated act adopted pursuant to Article 17, 29, 31, 35, 35b, 37, **44, 44a**, 50, 56, 75, 86, 92, 97, 99, 109a, 111, 114, 127, 130, 135, 143, 172, 210, 211, 216, 217, 227, 234, 241, 244, 245, 247, 248, 256, 256b, 258, 260 or 308b shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.;

Or. en

Amendment 778
Paul Tang

Proposal for a directive
Article 1 – paragraph 1 – point 89 – point c
Directive 2009/138/EC
Article 301a – paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to Article 17, 29, 31, 35, 35b, 37, 50, 56, 75, 86, 92, 97, 99, 109a, 111, 114, 127, 130, 135, 143, 172, 210, 211, 216, 217, 227, 234, 241, 244, 245, 247, 248, 256, 256b, 258, 260 or 308b shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.;

Amendment

5. A delegated act adopted pursuant to Article 17, 29, 31, 35, 35b, 37, **44**, 50, 56, 75, 86, 92, 97, 99, 109a, 111, 114, 127, 130, 135, 143, 172, 210, 211, 216, 217, 227, 234, 241, 244, 245, 247, 248, 256, 256b, 258, 260 or 308b shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.;

Or. en

Justification

To bring this article in line with amendments made to Article 44.

Amendment 779

Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 89 – point c

Directive 2009/138/EC

Article 301a – paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to Article 17, 29, 31, 35, 35b, 37, 50, 56, 75, 86, 92, 97, 99, 109a, 111, 114, 127, 130, 135, 143, 172, 210, 211, 216, 217, 227, 234, 241, 244, 245, 247, 248, 256, 256b, 258, 260 or 308b shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of

Amendment

5. A delegated act adopted pursuant to Article 17, 29, 31, 35, 35b, 37, **44**, 50, 56, 75, 86, 92, 97, 99, 109a, 111, 114, 127, 130, 135, 143, 172, 210, 211, 216, 217, 227, 234, 241, 244, 245, 247, 248, 256, 256b, 258, 260 or 308b shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a

notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.;

period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.;

Or. en

Amendment 780

Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point 90

Directive 2009/138/EC

Article 304 – paragraph 1

Present text

1. Member States may authorise life insurance undertakings **providing:**

(a) occupational retirement provision business in accordance with Article 4 of Directive 2003/41/EC, or

(b) retirement benefits paid by reference to reaching, or the expectation of reaching, retirement where the premiums paid for those benefits have a tax deduction which is authorised to policy holders in accordance with the national legislation of the Member State that has authorised the undertaking;

Amendment

1. Member States may authorise life insurance **and reinsurance** undertakings where:

(i) the average duration of the liabilities corresponding to the business held by the undertaking exceeds ***eight*** years; **and**

(ii) to apply an equity risk sub-module of the Solvency Capital Requirement, which is calibrated using a Value-at-Risk measure, over a time period, which is consistent with the typical holding period of equity investments for the undertaking concerned, with a confidence level providing the policy holders and beneficiaries with a level of protection equivalent to that set out in Article 101, where the approach provided for in this Article is used only in respect of those assets and liabilities referred in point (i) ***of this paragraph***. In the calculation of the Solvency Capital Requirement those assets and liabilities shall be fully considered for the purpose of assessing the diversification effects, without prejudice to the need to

safeguard the interests of policy holders and beneficiaries in other Member States.

"

where

(i) all assets and liabilities corresponding to the business are ring-fenced, managed and organised separately from the other activities of the insurance undertakings, without any possibility of transfer;

(ii) the activities of the undertaking related to points (a) and (b), in relation to which the approach referred to in this paragraph is applied, are pursued only in the Member State where the undertaking has been authorised; and

(iii) the average duration of the liabilities corresponding to the business held by the undertaking exceeds an average of 12 years;

to apply an equity risk sub-module of the Solvency Capital Requirement, which is calibrated using a Value-at-Risk measure, over a time period, which is consistent with the typical holding period of equity investments for the undertaking concerned, with a confidence level providing the policy holders and beneficiaries with a level of protection equivalent to that set out in Article 101, where the approach provided for in this Article is used only in respect of those assets and liabilities referred in point (i). In the calculation of the Solvency Capital Requirement those assets and liabilities shall be fully considered for the purpose of assessing the diversification effects, without prejudice to the need to safeguard the interests of policy holders and beneficiaries in other Member States.

Subject to the approval of the supervisory authorities, the approach set out in the first subparagraph shall be used only where the solvency and liquidity position as well as the strategies, processes and reporting procedures of the undertaking concerned with respect to asset–liability management are such as to ensure, on an

ongoing basis, that it is able to hold equity investments for a period which is consistent with the typical holding period of equity investments for the undertaking concerned. The undertaking shall be able to demonstrate to the supervisory authority that that condition is verified with the level of confidence necessary to provide policy holders and beneficiaries with a level of protection equivalent to that set out in Article 101.

Insurance and reinsurance undertakings shall not revert to applying the approach set out in Article 105, except in duly justified circumstances and subject to the approval of the supervisory authorities.

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0138-20210630>)

Amendment 781

Marco Zanni, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point 90

Directive 2009/138/EC

Article 304 – paragraph 2

Text proposed by the Commission

Amendment

2. *As of [OP please insert date = date of application of this amending Directive] life insurance undertakings may continue to apply the approach referred to in paragraph 1 of this Article only in respect of assets and liabilities to which supervisory authorities approved the application of the duration-based equity sub-module before [OP please insert date = application date of this amending Directive].;* **deleted**

Or. en

Amendment 782

Stéphanie Yon-Courtin, Gilles Boyer, Pascal Canfin, Pascal Durand

Proposal for a directive

Article 1 – paragraph 1 – point 91

Directive 2009/138/EC

Article 304a – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. EIOPA, after consulting the ESRB, shall assess, on the basis of available data and the findings of the Platform on Sustainable Finance referred to in Article 20 of Regulation (EU) 2020/852 of the European Parliament and of the Council* and the EBA in the context of its work under the mandate set out in Article 501c, point (c), of Regulation (EU) 575/2013 whether a dedicated prudential treatment of exposures related to assets or activities associated substantially with environmental or social objectives would be justified. In particular, EIOPA shall assess the potential effects of a dedicated prudential treatment of exposures related to assets and activities which are associated substantially with environmental and/or social objectives or which are associated substantially with harm to such objectives on the protection of policy holders and financial stability in the Union.

Amendment

1. EIOPA, after consulting the ESRB, shall assess, on the basis of available data and the findings of the Platform on Sustainable Finance referred to in Article 20 of Regulation (EU) 2020/852 of the European Parliament and of the Council* and the EBA in the context of its work under the mandate set out in Article 501c, point (c), of Regulation (EU) 575/2013 whether a dedicated prudential treatment of exposures related to assets or activities associated substantially with environmental or social objectives would be justified. In particular, EIOPA shall assess the potential effects of a dedicated prudential treatment of exposures related to assets and activities which are associated substantially with environmental and/or social objectives or which are associated substantially with harm to such objectives on the protection of policy holders and financial stability in the Union, ***including fossil fuel related-assets.***

Or. en

Justification

Beyond working on green and brown assets, EIOPA's mandate should include an in-depth work on transition risks affecting fossil fuel-related assets to mitigate risks on financial stability.

Amendment 783

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 91

Text proposed by the Commission

1. EIOPA, after consulting the ESRB, shall assess, on the basis of available data and the findings of the Platform on Sustainable Finance referred to in Article 20 of Regulation (EU) 2020/852 of the European Parliament and of the Council* and the EBA in the context of its work under the mandate set out in Article 501c, point (c), of Regulation (EU) 575/2013 whether a dedicated prudential treatment of exposures related to assets or activities associated substantially with environmental or social objectives would be justified. In particular, EIOPA shall assess the potential effects of a dedicated prudential treatment ***of exposures related to assets and*** activities which are associated substantially with environmental and/or social objectives or which are associated substantially with harm to such objectives on the protection of policy holders and financial stability in the Union.

Amendment

1. EIOPA, after consulting the ESRB, shall assess, on the basis of available data and the findings of the Platform on Sustainable Finance referred to in Article 20 of Regulation (EU) 2020/852 of the European Parliament and of the Council* and the EBA in the context of its work under the mandate set out in Article 501c, point (c), of Regulation (EU) 575/2013 whether a dedicated prudential treatment of exposures related to assets or activities associated substantially with environmental or social objectives would be justified. In particular, EIOPA shall assess the potential effects of a dedicated prudential treatment ***for insurance investment and underwriting*** activities which are associated substantially with environmental and/or social objectives or which are associated substantially with harm to such objectives on the protection of policy holders and financial stability in the Union.

Or. en

Amendment 784

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 91

Directive 2009/138/EC

Article 304a – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. EIOPA, after consulting the ESRB, shall assess, on the basis of available data and the findings of the Platform on Sustainable Finance referred to in Article 20 of Regulation (EU) 2020/852 of the European Parliament and of the Council*

Amendment

1. EIOPA, after consulting the ESRB, shall assess, on the basis of available data and the findings of the Platform on Sustainable Finance referred to in Article 20 of Regulation (EU) 2020/852 of the European Parliament and of the Council*

and the EBA in the context of its work under the mandate set out in Article 501c, point (c), of Regulation (EU) 575/2013 whether a dedicated prudential treatment of exposures related to assets or **activities** associated substantially with environmental or social objectives would be justified. In particular, EIOPA shall assess the potential effects of a dedicated prudential treatment of exposures related to assets and **activities which are associated substantially with environmental and/or social objectives or** which are associated substantially with harm to **such** objectives on the protection of policy holders and financial stability in the Union.

and the EBA in the context of its work under the mandate set out in Article 501c, point (c), of Regulation (EU) 575/2013 whether a dedicated prudential treatment of exposures related to assets or **insurance liabilities** associated substantially with environmental or social objectives would be justified. In particular, EIOPA shall assess the potential effects of a dedicated prudential treatment of exposures related to assets and **insurance liabilities** which are associated substantially with harm to **environmental and/or social** objectives on the protection of policy holders and financial stability in the Union.

Or. en

Amendment 785
Chris MacManus

Proposal for a directive
Article 1 – paragraph 1 – point 91
Directive 2009/138/EU
Article 304a – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. EIOPA, after consulting the ESRB, shall assess, on the basis of available data and the findings of the Platform on Sustainable Finance referred to in Article 20 of Regulation (EU) 2020/852 of the European Parliament and of the Council* and the EBA in the context of its work under the mandate set out in Article 501c, point (c), of Regulation (EU) 575/2013 whether a dedicated prudential treatment of exposures related to assets or **activities** associated substantially with environmental or social objectives would be justified. In particular, EIOPA shall assess the potential effects of a dedicated prudential treatment of exposures related to assets and **activities** which are associated substantially with environmental and/or social objectives or

Amendment

1. EIOPA, after consulting the ESRB, shall assess, on the basis of available data and the findings of the Platform on Sustainable Finance referred to in Article 20 of Regulation (EU) 2020/852 of the European Parliament and of the Council* and the EBA in the context of its work under the mandate set out in Article 501c, point (c), of Regulation (EU) 575/2013 whether a dedicated prudential treatment of exposures related to assets or **liabilities** associated substantially with environmental or social objectives would be justified. In particular, EIOPA shall assess the potential effects of a dedicated prudential treatment of exposures related to assets and **liabilities** which are associated substantially with environmental and/or social objectives or

which are associated substantially with harm to such objectives on the protection of policy holders and financial stability in the Union.

which are associated substantially with harm to such objectives on the protection of policy holders and financial stability in the Union.

Or. en

Justification

Based on EIOPA's recommendation during internal seminar.

Amendment 786

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 91

Directive 2009/138/EC

Article 304a – paragraph 1 – subparagraph 2

Text proposed by the Commission

EIOPA shall submit a report on its findings to the Commission by 28 June 2023. Where appropriate, the report shall consider a possible prudential treatment of exposures related to assets and *activities* which are associated substantially with environmental or social objectives or which are associated substantially with harm to such objectives and be accompanied by an assessment of the impact of the proposed amendments on insurance and reinsurance undertakings.

Amendment

EIOPA shall submit a report on its findings to the Commission by 28 June 2023. Where appropriate, the report shall consider a possible prudential treatment of exposures related to assets and *insurance liabilities* which are associated substantially with environmental or social objectives or which are associated substantially with harm to such objectives and be accompanied by an assessment of the impact of the proposed amendments on insurance and reinsurance undertakings.

Or. en

Amendment 787

Chris MacManus

Proposal for a directive

Article 1 – paragraph 1 – point 91

Directive 2009/138/EC

Paragraph 304a – paragraph 1 – subparagraphs 2 a (new) and 2 b (new)

Text proposed by the Commission

Amendment

EIOPA shall review existing evidence and update the report every two years.

EIOPA should also assess the impact that the proposed changes to the prudential framework would have on:

(a) the underwriting and investment activities of undertaking that may affect the macroeconomic and financial markets' developments (in particular climate change) and have the potential to turn into sources of systemic risk;

(b) advancing the objective to achieve climate neutrality in the EU by 2050 at the latest, as set out in Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 ("European Climate Law").

By 31 December 2023, the Commission shall present a report to the European Parliament and the Council specifying how it will take into account EIOPA's report and findings. The Commission's report shall be accompanied, if appropriate, by a legislative proposal.

Or. en

Amendment 788
Chris MacManus

Proposal for a directive
Article 1 – paragraph 1 – point 91
Directive 2009/138/EC
Article 304a – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. By 28 June 2023, EIOPA, after consultation with stakeholders, shall publish guidelines for supervisory authorities on how insurance and reinsurance undertakings shall integrate

sustainability risks and adverse impacts on sustainability factors into their risk management systems in accordance with Article 44, including in relation to the types of sustainability risks and sustainability factors that shall be considered by insurance and reinsurance undertakings and processes for identifying and managing adverse impacts on sustainability factors.

Or. en

Amendment 789
Stéphanie Yon-Courtin, Gilles Boyer

Proposal for a directive
Article 1 – paragraph 1 – point 91
Directive 2009/138/EC
Article 304a – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. EIOPA shall review at least every three years, with respect to natural catastrophe risk, the scope and the calibration of the standard parameters of the non-life catastrophe sub-module of the Solvency Capital Requirement referred to in Article 105(2), third subparagraph, point (b). For the purpose of those reviews, EIOPA shall take into account the latest available relevant evidence on climate science and the relevance of risks in terms of the risks underwritten by insurance and reinsurance companies that use the standard formula for the calculation of the non-life catastrophe sub-module of the Solvency Capital Requirement.

Amendment

2. EIOPA shall review at least every three years, with respect to natural catastrophe risk, the scope and the calibration of the standard parameters of the non-life catastrophe sub-module of the Solvency Capital Requirement (**SCR**) referred to in Article 105(2), third subparagraph, point (b). For the purpose of those reviews, EIOPA shall take into account the latest available relevant evidence on climate science and the relevance of risks in terms of the risks underwritten by insurance and reinsurance companies that use the standard formula for the calculation of the non-life catastrophe sub-module of the Solvency Capital Requirement.

Or. en

Justification

The European Commission's proposal regarding EIOPA's review of the calculation of natural catastrophe risk under the standard approach should be kept.

Amendment 790

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 91

Directive 2009/138/EC

Article 304a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. EIOPA shall evaluate whether and to what extent insurance and reinsurance undertakings assess their material exposure to risks related to biodiversity loss as part of the assessment referred to in Article 45(1). EIOPA shall subsequently assess which actions could be taken in order to ensure that insurance and reinsurance undertakings do so, where necessary, taking into account existing measurement tools. EIOPA shall assess to what extent insurance and reinsurance undertakings' activities affect biodiversity, including through their investment and underwriting policies. EIOPA shall submit a report on its findings to the Commission by [one year after the entry into force of this amending Directive].

Or. en

Amendment 791

Chris MacManus

Proposal for a directive

Article 1 – paragraph 1 – point 91

Directive 2009/138/EC

Article 304a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. EIOPA shall evaluate whether and to what extent insurance and reinsurance

undertakings assess their material exposure to risks related to biodiversity loss as part of the assessment referred to in Article 45(1). EIOPA shall subsequently assess which actions could be taken in order to ensure that insurance and reinsurance undertakings do so, where necessary, taking into account existing measurement tools. EIOPA shall submit a report on its findings to the Commission by [one year after the entry into force of this amending Directive].

Or. en

Justification

Taken from the Council's general approach.

Amendment 792

Stéphanie Yon-Courtin, Gilles Boyer, Pascal Canfin, Pascal Durand

Proposal for a directive

Article 1 – paragraph 1 – point 91

Directive 2009/138/EC

Article 304a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. EIOPA shall evaluate whether and to what extent insurance and reinsurance undertakings assess their material exposure to biodiversity-related risks as part of the assessment referred to in Article 45(1). EIOPA shall subsequently assess which actions should be taken to ensure that insurance and reinsurance undertakings duly consider these risks. EIOPA shall submit a report on its findings to the Commission by 28 June 2023.

Or. en

Justification

Beyond the mandate given to EIOPA on climate-related risks, EIOPA should also look at

biodiversity-related risks.

Amendment 793

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 91

Directive 2009/138/EC

Article 304a – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. EIOPA, EBA and ESMA shall, through the Joint Committee referred to in Article 54 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010, develop guidelines to ensure that consistency, long-term considerations and common standards for assessment methodologies are integrated into the stress testing of environmental, social and governance risks. Supervisory stress testing of environmental, social and governance risks should start with environmental-related factors. EIOPA, EBA and ESMA shall, through the Joint Committee referred to in Article 54 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010, explore how social and governance related risks can be integrated into stress testing.

Or. en

Amendment 794

Paul Tang

Proposal for a directive

Article 1 – paragraph 1 – point 91 a (new)

Directive 2009/138/EC

Article 304b (new)

(91a) The following Article is inserted:

'Article 304b

Prudential treatment of securitisation

By 31 December 2024 EIOPA shall report to the European Commission on a more appropriate calibration of capital requirements for investments in securitisation tranches, including senior STS, non-senior STS and non-STS. In particular, EIOPA shall take into consideration:

(a) data relating to risk of STS securitisations since 2019 and proxy data for securitisations with similar characteristics prior to 2019;

(b) data relating to risk of securitisations generally for non-STS securitisations;

(c) the creation of a proportionate set of capital requirements between different asset classes that provides for a level playing field between asset classes and reduces regulatory arbitrage.

Having taken into account the EIOPA report referred to in subparagraph 1 of this article, the Commission is empowered to amend Delegated Regulation (EU) 2015/35 with regard to the capital treatment of securitisation by adopting a delegated act in accordance with Article 301a.'

Or. en

Justification

Recent academic work suggests that the risks associated with investments in (STS) securitisation are lower than the risk-weight accorded to such investments by insurers. As such, EIOPA should have a closer look into how these risk weights should be adjusted.

Amendment 795

Eero Heinäluoma, Paul Tang, Jonás Fernández, Aurore Lalucq

Proposal for a directive
Article 1 – paragraph 1 – point 91 a (new)
Directive 2009/138/EC
Article 304b (new)

Text proposed by the Commission

Amendment

(91a) the following Article is inserted:

‘Article 304b

Profit sharing reserve schemes

The Commission shall publish a report on the use of profit sharing reserve schemes in the Member States, analysing their impact on the balance sheet of the insurance and reinsurance undertakings, break down per Member States, within 12 months from the entry into force of the Directive. This report shall assess the risks of these schemes in terms of financial stability and policyholder protection, their impact on the level playing field among undertakings in the Union, and the legislations adopted in the Member States in this regard.

On the basis of this report, the Commission shall adopt a legislative proposal to phase-out these schemes over a defined transitional period, and to adopt safeguards in order to limit the risks during this transitional period stemming from them the financial stability and policyholder protection.’

Or. en

Amendment 796
Enikő Győri

Proposal for a directive
Article 1 – paragraph 1 – point 91 a (new)
Directive 2009/138/EC
Article 304b (new)

Text proposed by the Commission

Amendment

(91a) The following Article is inserted:

‘Article 304b

Review as regards the separation of life and non-life insurance business

EIOPA shall assess whether the requirement on the separation of life and non-life insurance business referred to in Article 73 paragraph (1) would be still justified. In particular, EIOPA shall assess the effects of maintaining and the potential effects of lifting the composite ban with respect to policyholder protection, potential cross-subsidisation between life and non-life activities, market efficiency and competitiveness. For the purpose of the assessment, EIOPA shall take into account the supervisory experiences with composite undertakings. EIOPA shall submit a report on its findings to the Commission by 28 June 2024.’

Or. en

Amendment 797

Johan Van Overtveldt

Proposal for a directive

Article 1 – paragraph 1 – point 94 – point c

Directive 2009/138/EC

Article 308b – paragraph 17 – subparagraphs 1a and 1b

Text proposed by the Commission

Amendment

(c) in paragraph 17, the following subparagraphs are inserted after the first subparagraph:

deleted

Where an insurance or reinsurance group, or any of its subsidiary insurance or reinsurance undertakings is applying the transitional measure on the risk-free

interest rates referred to in Article 308c or the transitional measure on technical provisions referred to in Article 308d, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company shall publicly disclose, as part of its report on the group solvency and financial condition referred to in Article 256, and in addition to the disclosures referred to in Articles 308c(4), point (c), and Article 308d(5), point (c), the quantification of the impact on its financial position of assuming that the own funds stemming from the application of those transitional measures cannot effectively be made available to cover the Solvency Capital Requirement of the participating undertaking for which the group solvency is calculated.

Where an insurance or reinsurance group materially relies on the use of the transitional measures referred to in Articles 308c and 308d in such a manner that it misrepresents the actual solvency position of the group, even where the group Solvency Capital Requirement would be complied with without the use of those transitional measures, the group supervisor shall have the power to take appropriate measures, including the possibility to reduce the amount of own funds stemming from the use of those transitional measures that may be deemed eligible to cover the group Solvency Capital Requirement.;

,

Or. en

Justification

It is suggested to delete these provisions, as these would imply an increase of reporting burden from Solvency II which, taking into account already multiple existing and new reporting requirements, seems disproportionate when comparing benefits for stakeholders with costs incurred by insurance and reinsurance companies.

Amendment 798
Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 94 – point c

Directive 2009/138/EC

Article 308b – paragraph 17 – subparagraph 1b

Text proposed by the Commission

Where an insurance or reinsurance group materially relies on the use of the transitional measures referred to in Articles 308c and 308d in such a manner that it misrepresents the actual solvency position of the group, even where the group Solvency Capital Requirement would be complied with without the use of those transitional measures, the group supervisor shall **have the power to** take appropriate measures, **including the possibility to reduce** the amount of own funds stemming from the use of those transitional measures that may be deemed eligible to cover the group Solvency Capital Requirement.;

Amendment

Where an insurance or reinsurance group materially relies on the use of the transitional measures referred to in Articles 308c and 308d in such a manner that it misrepresents the actual solvency position of the group, even where the group Solvency Capital Requirement would be complied with without the use of those transitional measures, the group supervisor shall take appropriate measures, **like the reduction of** the amount of own funds stemming from the use of those transitional measures that may be deemed eligible to cover the group Solvency Capital Requirement.;

Or. en

Amendment 799

Henrike Hahn

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point 95 – point a (new)

Directive 2009/138/EC

Article 308c – paragraph 2

Present text

The portion referred to in the first subparagraph shall decrease linearly at the end of each year from 100 % during the year starting from 1 January 2016 to 0 % on 1 January **2032**.

Amendment

(aa) in paragraph 2 the third subparagraph is replaced by:

"The portion referred to in the first subparagraph shall decrease linearly at the end of each year from 100 % during the year starting from 1 January 2016 to 0 % on 1 January **2030**."

"

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0138-20210630>)

Amendment 800

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 95 – point b

Directive 2009/138/EC

Article 308c – paragraph 4 – point c – point iv

Text proposed by the Commission

(iv) an assessment of the dependency of the undertaking on this transitional measure and, where applicable, a description of the measures taken or planned by the undertaking to reduce or remove the dependency.;

Amendment

(iv) an assessment of the dependency of the undertaking on this transitional measure and, where applicable, a description of the measures taken or planned by the undertaking ***as well as a concrete timing in which these measures have effect***, to reduce or remove the dependency.;

Or. en

Amendment 801

Eero Heinäluoma, Aurore Lalucq

Proposal for a directive

Article 1 – paragraph 1 – point 96 – point b

Directive 2009/138/EC

Article 308c – paragraph 4 – point c – point iv

Text proposed by the Commission

(iv) an assessment of the dependency of the undertaking on this transitional measure and, where applicable, a description of the measures taken or planned by the undertaking to reduce or remove the dependency.;

Amendment

(iv) an assessment of the dependency of the undertaking on this transitional measure and, where applicable, a description of the measures taken or planned by the undertaking ***as well as a concrete timing in which these measures have effect***, to reduce or remove the dependency.;

Amendment 802
Eero Heinäluoma, Aurore Lalucq

Proposal for a directive
Article 1 – paragraph 1 – point 96 a (new)
 Directive 2009/138/EC
 Article 308e

Present text

Insurance and reinsurance undertakings that apply the transitional measures *set out* in Articles **308c or 308d** shall inform the supervisory authority as soon as they observe that they would not comply with the Solvency Capital Requirement without application of these transitional measures. The supervisory authority shall require the insurance or reinsurance undertaking concerned to take the necessary measures to ensure compliance with the Solvency Capital Requirement at the end of the transitional period.

Within two months from observation of non-compliance with the Solvency Capital Requirement without application of these transitional measures, the insurance or reinsurance undertaking concerned shall submit to the supervisory authority a phasing-in plan setting out the planned measures to establish the level of eligible own funds covering the Solvency Capital Requirement or to reduce its risk profile to ensure compliance with the Solvency Capital Requirement at the end of the transitional *period*. **The** insurance or reinsurance undertaking concerned may update the phasing-in plan during the

Amendment

(96a) Article 308e is replaced by the following:

"

Insurance and reinsurance undertakings that apply the transitional measures *referred to* in Articles **77a(2), 308c, 308d or, where relevant, Article 111(1), second or third subparagraph** shall inform the supervisory authority as soon as they observe that they would not comply with the Solvency Capital Requirement without application of these transitional measures. The supervisory authority shall require the insurance or reinsurance undertaking concerned to take the necessary measures to ensure compliance with the Solvency Capital Requirement at the end of the transitional period.

Within two months from observation of non-compliance with the Solvency Capital Requirement without application of these transitional measures, the insurance or reinsurance undertaking concerned shall submit to the supervisory authority a phasing-in plan setting out the planned measures, **including the timing of those measures**, to establish the level of eligible own funds covering the Solvency Capital Requirement or to reduce its risk profile to ensure compliance with the Solvency Capital Requirement at the end of the transitional *period*. **The** insurance or reinsurance undertaking concerned may update the phasing-in plan during the

transitional period.

The insurance and reinsurance undertakings concerned shall submit annually a report to their supervisory authority setting out the measures taken and the progress made to ensure compliance with the Solvency Capital Requirement at the end of the transitional period. Supervisory authorities shall revoke the approval for the application of the transitional measure where ***that progress report shows that*** compliance with the Solvency Capital Requirement at the end of the transitional period is unrealistic.

transitional period.

The insurance and reinsurance undertakings concerned shall submit annually a report to their supervisory authority setting out the measures taken and the progress made to ensure compliance with the Solvency Capital Requirement at the end of the transitional period. Supervisory authorities ***may revoke the approval for the application of the transitional measure set out in Articles 308c and 308d where the undertaking cannot demonstrate to the satisfaction of the supervisory authority that sufficient progress has been made with respect to compliance with the Solvency Capital Requirement without transitional measures at the end of the transitional period. Supervisory authorities*** shall revoke the approval for the application of the transitional measure ***set out in Articles 308c and 308d*** where that compliance with the Solvency Capital Requirement at the end of the transitional period is unrealistic.;

"

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0138-20210630>)

Amendment 803

Johan Van Overtveldt

Proposal for a directive

Article 1 – paragraph 1 – point 96 a (new)

Directive 2009/138/EC

Article 308e

Present text

Amendment

Article 308e

Phasing-in plan on the transitional measures ***on risk-free interest rates and on***

(96a) Article 308e is replaced by the following:

"Article 308e

Phasing in plan on the transitional

technical provisions

Insurance and reinsurance undertakings that apply the transitional measures ***set out in Articles 308c or 308d*** shall inform the supervisory authority as soon as they observe that they would not comply with the Solvency Capital Requirement without application of these transitional measures. The supervisory authority shall require the insurance or reinsurance undertaking concerned to take the necessary measures to ensure compliance with the Solvency Capital Requirement at the end of the transitional period.

Within two months from observation of non-compliance with the Solvency Capital Requirement without application of these transitional measures, the insurance or reinsurance undertaking concerned shall submit to the supervisory authority a phasing-in plan setting out the planned measures ***to establish the level of eligible own funds covering the Solvency Capital Requirement or to reduce its risk profile to ensure compliance with the Solvency Capital Requirement at the end of the transitional period. The insurance or reinsurance undertaking concerned may update the phasing-in plan during the transitional period.***

Within two months from observation of non-compliance with the Solvency Capital Requirement without application of these transitional measures, the insurance or reinsurance undertaking concerned shall submit to the supervisory authority a phasing-in plan setting out the planned measures to establish the level of eligible own funds covering the Solvency Capital Requirement or to reduce its risk profile to ensure compliance with the Solvency Capital Requirement at the end of the transitional period. The insurance or reinsurance undertaking concerned may update the phasing-in plan during the transitional period.

measures

Insurance and reinsurance undertakings that apply the transitional measures shall inform the supervisory authority as soon as they observe that they would not comply with the Solvency Capital Requirement without application of these transitional measures. The supervisory authority shall require the insurance or reinsurance undertaking concerned to take the necessary measures to ensure compliance with the Solvency Capital Requirement at the end of the transitional period.

Within two months from observation of non-compliance with the Solvency Capital Requirement without application of these transitional measures, the insurance or reinsurance undertaking concerned shall submit to the supervisory authority a phasing-in plan setting out the planned measures, ***including the timing of those measures***, to establish the level of eligible own funds covering the Solvency Capital Requirement or to reduce its risk profile to ensure compliance with the Solvency Capital Requirement at the end of the transitional period. The insurance or reinsurance undertaking concerned may update the phasing-in plan during the transitional period.

The insurance and reinsurance undertakings concerned shall submit annually a report to their supervisory authority setting out the measures taken and the progress made to ensure compliance with the Solvency Capital Requirement at the end of the transitional period. Supervisory authorities ***may revoke the approval for the application of the transitional measure set out in Articles 308c and 308d where the undertaking cannot demonstrate to the satisfaction of the supervisory authority that sufficient progress has been made with respect to compliance with the Solvency Capital Requirement without transitional***

The insurance and reinsurance undertakings concerned shall submit annually a report to their supervisory authority setting out the measures taken and the progress made to ensure compliance with the Solvency Capital Requirement at the end of the transitional period. Supervisory authorities shall revoke the approval for the application of the transitional measure where **that progress report shows** that compliance with the Solvency Capital Requirement at the end of the transitional period is unrealistic.

measures at the end of the transitional period.

Supervisory authorities shall revoke the approval for the application of the transitional measure where **they consider** that compliance with the Solvency Capital Requirement at the end of the transitional period is unrealistic.;

"

Or. en

(<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0138-20210630>)

Amendment 804
Engin Eroglu

Proposal for a directive
Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1 a

Transitional provisions

1. With regard to contracts that have been concluded prior to [enter date of implementation for Member States of the changes to the Directive 2009/138/EC], the Member States may determine that a continuing right of cancellation that does not expire earlier shall expire twelve months after the end of the cancellation period referred to in Article 186 (1) (1). Member States which make use of this option shall ensure that the right of cancellation pursuant to this provision does not expire prior to [enter date 12 months after the date of implementation for Member States of the changes to the

Directive 2009/138/EC].

2. Member States which make use of the option provided for in the first paragraph shall notify the Commission accordingly.

Or. en

Justification

The 'eternal cancellation right' is already causing considerable legal uncertainty. In order to remedy the situation not only for contracts concluded after the implementation of the revisions to Directive 2009/138/EC but also for the large number of contracts which are currently subject or potentially subject to the 'eternal cancellation right', an optional provision to this effect should be included. The obligation to include a transitional period of 12 months after the application of the provisions allows existing customers who wish to rescind their contracts sufficient time to exercise the cancellation right before it expires.