

<b>Comments Template on EIOPA-BoS-19-259</b> <b>Consultation Paper on</b> <b>Proposals for Solvency II 2020 Review</b> <b>Harmonisation of National Insurance Guarantee Schemes</b>		<b>Deadline</b> <b>18 October</b> <b>2019</b> <b>23:59 CET</b>
<b>Name of company:</b>	<b>Insurance Sweden</b>	
<b>Disclosure of comments:</b>	<p>EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.</p> <p>Please indicate if your comments should be treated as confidential, by deleting the word "Public" in the column to the right and leaving only the word "Confidential".</p>	Public / Confidential
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**Comments Template on EIOPA-BoS-19-259**

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18 October  
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23:59 CET**

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<b>Reference</b>	<b>Comment</b>	<b>EIOPA</b>
General comments	<p>As a member of Insurance Europe, Insurance Sweden (henceforth we) share the views expressed in the consultation response submitted by Insurance Europe. However, we wish to highlight and elaborate a bit further on some of the issues in the consultation.</p> <p>We believe that the existing protection for Swedish policyholders is already adequate. At the same time, there are several strong arguments against the introduction of an IGS in Sweden and we believe an IGS will most likely have negative implications for the Swedish insurance market. The fact that the conditions and the needs differ between the Member States indicates that decisions on whether IGS should be introduced and, if so, designed should be taken at national level.</p> <p>We, therefore, strongly support maintaining status quo and are against introducing a network of national IGS in EU. This is the same position as in our response to the 2018 EIOPA's discussion paper on IGS (see Insurance Sweden's response to the discussion paper).</p> <p>Many of the problems with the arguments in the 2018 discussion paper are unfortunately still valid for the consultation. One such issue is the lack of a proper and thorough analysis of the consequences of introducing a European network of national IGS. For example, as pointed out</p>	

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**Harmonisation of National Insurance Guarantee Schemes**

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18 October  
2019  
23:59 CET**

in the consultation a network of national IGS will probably lead to higher costs for insurance (see e.g. the Table on page 20 – 21). But in the consultation there are no analysis of how that will affect the policyholders, e.g. the households. We believe higher premiums could make financially vulnerable households less inclined to buy insurance policies. In this sense, a network of national IGS could reduce the overall level of insurance protection in the society, which in the end could imply higher costs for the government.

In addition, for life insurance policies the yearly costs (fee) of a network of national IGS could lead to an interest-on-interest rate effect that could reduce the final pension payments, especially in the current low interest rate environment. The establishment of a network of national IGS may also lead to that insurers will be less inclined to offer certain insurance products because it will be too costly. Thus, this could have a negative impact for those policyholders that demand/need those insurance products.

Another issue that was also present in the discussion paper, is the claim that a network of national IGS will be beneficial for the financial stability (see e.g. paragraph 67 in the consultation paper). However, neither in the discussion paper nor in the consultation this claim is motivated. For insurance there are no such stability risks as for banks that motivate a guarantee scheme. Instead, a network of IGS could lead to higher risk of contagion within the insurance sector especially in concentrated markets, such as the Swedish market. Thus, a European network of national IGS could actually have a negative impact on the financial stability, an issue which we believe is more or less neglected in the consultation. In addition, the consultation suffers from contradictory statements on this issue as an IGS cannot be both beneficial for the financial stability and be a threat to the financial stability (see paragraph 40 and 67 in the consultation).

**Comments Template on EIOPA-BoS-19-259**

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**Proposals for Solvency II 2020 Review**

**Harmonisation of National Insurance Guarantee Schemes**

**Deadline  
18 October  
2019  
23:59 CET**

	<p>However, the most severe problem with the consultation is the lack of a proper cost-benefit analysis. To just focus on the benefits (“+”) of different policy issues in the tables on e.g. page 23 and 30 is problematic. Instead these tables should be complemented with the costs (“-”). It also seems arbitrary which options get “++” and which get “+”. In addition, in order to conduct a proper cost-benefit analysis some estimation of the costs (e.g. in euros) of the policy proposals is required. However, as there are so many issues unresolved and unclear in the consultation), it is not at this stage possible to estimate the cost of the consultation’s proposals.</p> <p>In addition, in the consultation there is no description of what kind of losses that the IGS is supposed to cover. The losses of a liquidation will also differ greatly between different kinds of policies as well as insurers, which make estimations of the expected costs of IGS very difficult and in many cases not reliable. Therefore, we believe it is not possible to conclude that the benefits of an EU network of national IGS is larger than the costs, which is the conclusion of the consultation. Instead, we believe that a proper analysis of the consequences of a network of national IGS will show that the costs greatly exceeds the benefits for Sweden and many other member states.</p>	
Q1) Do you agree that the legal structure of policyholder protection schemes should be left to the discretion of Member States? Please explain your reasoning.	Yes, we think it should be left to the Member States discretion to choose the legal structure. However, there should be the same flexibility for other aspects of IGS. We believe that due to differences in national markets, e.g. in social welfare systems, insurance products lines and winding up proceedings, the decisions of establishment, scope and design of IGSs should be left at the national level completely.	
Q2) Do you see the	We don’t see a need for neither IGS nor recovery & resolution framework (R&R) for Sweden. In	

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**Consultation Paper on**

**Proposals for Solvency II 2020 Review**

**Harmonisation of National Insurance Guarantee Schemes**

**Deadline  
18 October  
2019  
23:59 CET**

need of a parallel development of the topics recovery and resolution framework and IGSs? Please explain your reasoning.

addition, we believe that EIOPA has not motivated well enough why there is a need of such frameworks. On the contrary, we think that, by introducing such frameworks there is a risk negative consequences for the insurance market as well as for the policyholders.

In addition, before developing any IGS and recovery & resolution (R&R) framework within EU there must be a thorough analysis of how Solvency II, including the 2018 review as well as other changes due to the 2020 review, affect the need for IGS and R&R framework. The introduction of Solvency II has significantly improved policyholder protection. The 2018 review, e.g. through new LAC DT requirements, have introduced even stricter regulatory requirements, which may also be the outcome of the 2020 review (also when IGS and R&R are excluded). If decisions about introducing IGS and R&R framework are not preceded by an extensive and thorough impact assessment and seen in relation to other parts of Solvency II, there is a very large risk that the frameworks will only result in large (unnecessary) costs and other negative consequences without any substantial improvements. Further, if it is decided to implement such frameworks in EU, it is critical that that they are phased in one after the other, with enough time between them to re-evaluate the need to introduce both IGS and R&R.

Q3) Do you agree that the primary objective of an IGS can be achieved by means of the two options proposed (i.e. paying compensation and ensuring the continuity of policies)?

Q4) Do you agree that the continuation of the policies should

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**Consultation Paper on**

**Proposals for Solvency II 2020 Review**

**Harmonisation of National Insurance Guarantee Schemes**

**Deadline  
18 October  
2019  
23:59 CET**

<p>take precedence in case of life and some long-term-life policies? Please explain your reasoning.</p>		
<p>Q5) What aspects are relevant to be taken into consideration for the effective implementation of the home-country principle?</p>	<p>We would like to stress the importance to allow large flexibility at national level to choose the features that best suit their domestic market if a requirement that Member States must have IGS would be introduced in EU. Flexibility is necessary to reflect the fact that there are important differences between Member States regarding e.g. the social welfare system, the winding-up process for insurers, type of insurance companies (mutuals etc.), and insurance products lines. Thus, the establishment, scope and design of IGSs should be left at the national level completely. This should also include the possibility for the national authorities to choose between home-country principle, host-country principle or some combination of these principles.</p>	
<p>Q6) Specifically, should the following options be added to the principles of the home-country approach:</p> <ul style="list-style-type: none"><li>• the possibility of the IGS of the host-country to function as a "front office" for the identification of the affected policyholders and beneficiaries?</li><li>• the possibility</li></ul>	<p>The features of IGS should be decided at national level in order reduce the drawbacks of requirements of IGS, if such requirements are introduced. Thus, it should be voluntary for the Member states to add these and other options/possibilities to the principle of geographical coverage that is considered most appropriate for their insurance market.</p>	

**Comments Template on EIOPA-BoS-19-259**

**Consultation Paper on**

**Proposals for Solvency II 2020 Review**

**Harmonisation of National Insurance Guarantee Schemes**

**Deadline  
18 October  
2019  
23:59 CET**

of the IGS of the host-country to make payments to the affected policyholders and beneficiaries (in their country of residence), and then have a right of recourse against the IGS of the home-country ("back office")?

Q7) Do you have any other comments on the geographical coverage? For instance, are there any cases, especially in statutory lines of business, where the host-country principle should be preferred?

Q8) Do you believe that the criteria for selecting the eligible policies (as set out in paragraph 149) capture all relevant policies which should be subject to IGS

Yes, we believe there could be cases where the host-country principle could be preferred, while in other cases the home-country principle could be preferred. And this could differ between the Member States, because of differences in e.g. the insurance products between the Member states, the social welfare system and the winding-up process. Therefore, the host- or home-principle should be a decision at national level.

The lack of an analysis of the criteria in paragraph 149 in the consultation paper and its practical implications on different insurance products in different Member States makes it impossible to conduct a thorough analysis of the consequences of an European network of national IGS.

We think the criteria set out in paragraph 149 are not thoroughly motivated and it is not

**Comments Template on EIOPA-BoS-19-259**

**Consultation Paper on**

**Proposals for Solvency II 2020 Review**

**Harmonisation of National Insurance Guarantee Schemes**

**Deadline  
18 October  
2019  
23:59 CET**

protection? Please explain your reasoning.

explained how they should be used in practice. We believe these criteria will lead to almost all insurance products within EU being covered by IGS. The reason is that what type of insurance that fulfil the criteria differ between the Member States, due to e.g. differences in products offered. For example, in some countries, e.g. Sweden, home insurance also covers legal protection, liability and travel insurance while in other Member States home insurance does not cover these other areas.

Compulsory insurance will most likely fulfil the criteria in paragraph 149 (see e.g. paragraph 139). Besides third party motor liability insurance there are large differences between the Member States in respect of what type of insurance products that is compulsory. In Sweden only a very limited number of insurance products are compulsory. As we understand it, if these criteria are used for a network of national IGS we could end up in a situation where the Swedish IGS will have to cover insurances products that are compulsory in just some (one?) other Member States. That could imply additional costs of the IGS for products which there are no need for extra protection for the Swedish policyholders.

There are also major differences when it comes to the extent of cross-border business. It is therefore a high likelihood that for a given insurance product the criteria in paragraph 149 will be fulfilled in at least one Member State and could therefore accordingly be covered by IGS in all Member States to be a network. Therefore, by using this criteria most insurance products may have to be covered by the national IGS.

Q9) Which policies should at least be eligible for IGS protection based on

Because of differences regarding insurance products, social welfare systems etc. the policies eligible for IGS protection could differ greatly among the Member States. Thus, in some Member States there could be many policies that are eligible, but in others, e.g. Sweden, very few polices, if any, would be eligible for IGS protection. Therefore, the choice of which policies



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**Consultation Paper on**

**Proposals for Solvency II 2020 Review**

**Harmonisation of National Insurance Guarantee Schemes**

**Deadline  
18 October  
2019  
23:59 CET**

these criteria (as set out in paragraph 149)?	that should be covered by the IGS must be decided at national level.	
Q10) Are there any other considerations to be taken into account to select the range of policies to be covered by an IGS? Please explain your reasoning.	<p>Differences between the Member States regarding e.g. insurance products, social welfare systems, the winding-up process must be taken into consideration when selecting the range of policies covered by IGS. Therefore, the choice of which policies that should be covered by the IGS must be decided at the national level.</p> <p>It is also very important that national specific circumstances are taken into consideration when selecting the range of policies that should be covered by IGS, otherwise there will be damaging and unwarranted consequences for the domestic insurance market as well as for the social welfare system, including the national pension systems. In particular, the differing structures of the occupational pensions markets and the varying types of schemes existing in different Member States must be respected. For that reason occupational pensions should not be covered by IGS or similar system, regardless if the provider is a life insurance company (applying Solvency II regulations) or a pension fund (applying IORP II regulations).</p>	
Q11) Which criteria should be used to determine/exclude the eligible claimants?	These criteria will differ between the member states due to differences in e.g. insurance products, social welfare and how the insurance market are structured. Therefore, these criteria must be decided at national level.	
Q12) Should coverage be extended to large legal persons where the ultimate beneficiary are retail customers (such as	We think that the coverage must be decided at national level. Which policyholders that need IGS-protection depends on e.g. insurance products and social welfare systems in the Member States. As they differ between the Member States, the coverage must also differ. In addition, in some member states, as in Sweden, the policy holder protection is sufficient for all natural as well as legal persons and, therefore, no need for IGS.	

**Comments Template on EIOPA-BoS-19-259**

**Consultation Paper on**

**Proposals for Solvency II 2020 Review**

**Harmonisation of National Insurance Guarantee Schemes**

**Deadline  
18 October  
2019  
23:59 CET**

large corporates offering pensions for customers)?		
Q13) What should be the relevant criteria to determine a minimum coverage level at EU level for different types of insurances?	We think the financing, i.e. ex-post or ex-ante funding, should be decided at national level. In the case of ex-post funding this question is not relevant. Therefore, we have no specific view about the target level, besides that the pre-fund level as well as other aspects of the financing should be decided at national level.	
Q14) What should be the relevant criteria to determine the target level for national IGSs?	We believe the financing, e.g. ex-post or ex-ante funding, should be decided at national level. In the case of ex-post funding this question is not relevant. Therefore, we have no specific view about the target level, besides that the pre-fund level as well as other aspects of the financing should be decided at national level.	
Q15) What should be the relevant criteria to determine the level of the annual contributions per individual insurer into IGSs, including the method of calculating such contributions (risk-based, fixed rate, other)?	The relevant criteria to determine annual contributions per insurer depends on the type of funding. When an ex-post funding system is chosen the contributions should be preferably a fixed rate. If Member States choose ex-ante funding, risk-based contributions make more sense. As we think that the IGS funding should be decided at national level, also the criteria for the annual contributions per insurer should be decided at national level.	
Q16) What should be the relevant criteria to determine the level of the annual contributions for the	The annual contributions will, amongst others, depend on the type of financing (ex-ante or ex-post), the number of insurance policies that will be covered by the IGS etc. Therefore, these criteria must be decided at national level. In addition, for concentrated markets, such as the Swedish insurance market, it is crucial that	

**Comments Template on EIOPA-BoS-19-259**

**Consultation Paper on**

**Proposals for Solvency II 2020 Review**

**Harmonisation of National Insurance Guarantee Schemes**

**Deadline  
18 October  
2019  
23:59 CET**

<p>industry as a whole, including the method of calculating such contributions (risk-based, fixed rate, other)?</p>	<p>there are strict upper limits for the annual level of contributions to an IGS and that these upper limits are fixed independent of failures of other insurers. In concentrated markets, IGS will only be able to protect consumers from the failure of (very) small insurance companies. If the IGS are supposed to cover also failures of medium-sized or large company, then failures of such companies would significantly weaken the financial position of otherwise healthy insurers. Thus, IGS in concentrated markets could lead to severe contagion risk since the IGS would introduce interdependence between the companies. Thereby, for concentrated markets the IGS could have a negative impact on the financial stability. The negative impact can be somewhat reduced by having strict upper limits of the contribution to IGS and requiring additional contributions from the industry. However, such limits would require state assistance in the event of a failure of a mid/sized/large insurance company. Thus, one of the consultation's arguments for a network of national IGS, i.e. that the reliance on public funds are minimized, is not valid. And if the upper limits are high there will be high costs for the insurance companies and even more negative implications for the policyholders of IGS.</p>	
<p>Q17) Are there any other elements that should be included in the disclosure requirements to policyholders? If so, what are those?</p>		
<p>Q18) Are there any other elements that are relevant in the context of cross-border cooperation</p>		

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**Consultation Paper on**

**Proposals for Solvency II 2020 Review**

**Harmonisation of National Insurance Guarantee Schemes**

**Deadline  
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23:59 CET**

and coordination arrangements in this field, particularly in the context of the home-country approach, please also refer to Q4 and Q5)? If so, what are those?