

## FERMA response to the European Commission's Public consultation on the review of prudential rules for insurance and reinsurance companies ([Solvency II](#))

*Note to reader: FERMA only responded to a selection of questions on the public consultation questionnaire.*

Question 13: From the point of view of policyholders, should the scope of small insurance companies, which are not subject to Solvency II be extended?

YES.

Explanation:

FERMA offers a qualified yes to the question. FERMA believes that the current exemption criteria (less than EUR 5 million in premium) should be extended by taking into account objective criteria about the nature, scale and complexity of insurance companies, together with the ultimate objectives of Solvency II (financial stability, consumer protection and market discipline).

Allowing a wider range of entities representing an insignificant risk to financial stability or consumer protection to benefit from Solvency II exemption would support a more dynamic global market with more diversity, competition and innovation to the benefit of the end customers.

For smaller companies, compliance and regulatory costs are high relative to their size. There is always a minimum in absolute value for compliance costs, irrespective of the company's size, which can be detrimental to small entities.

Question 14: Should public authorities have less discretion when deciding whether insurers may apply simplified approaches and/or implement Solvency II rules in a more proportionate and flexible way? Please explain your reasoning (if needed).

YES

Explanation:

Again, this is a qualified Yes. Based on a survey of our Members, FERMA found that the Principle of Proportionality (PoP) is applied inconsistently depending on the country. For example, some reporting proportionality is allowed in some domiciles (Ireland for ORSA, Luxembourg for quarterly reporting) and not in others.

FERMA believes there would be a significant value in reviewing how the Principle of Proportionality (PoP) is actually interpreted in the various Member States and in promoting a consistent approach to ensure judgment from national competent authorities allows proportionality to be harmonised.

An objective and harmonized framework at EU level, with clear guidance about criteria to assess how PoP should apply according to the scale, nature and complexity of insurance undertakings would allow a consistent and more predictable evaluation of proportionality, regardless of the location.

FERMA believes the regulation should achieve the right balance between a consistent, methodological and more predictable definition of PoP, whilst keeping an open dialogue with EU national supervisors around practical application of proportionality measures and allowing them to keep control about how and to what extent the said measures can be applied.

PoP is equally crucial for supervisory authorities as it can allow them to more effectively use their limited resources and focus them on what is actually relevant for the regulation (focus on more risky companies, critical risk areas in an industry segment, customer protection, etc.).

Question 15: Should the exemptions and limitations always be subject to the discretion of the public authorities? Please indicate the statements with which you agree.

- The current system of exemptions and limitations is satisfactory
- The framework should also include some clear criteria for automatic exemption and limitation
- The 20% limit should be increased**
- The 20% limit should be reduced
- There should be no discretion at all
- I have another answer**
- Don't know/no opinion

Explanation:

In FERMA's opinion, exemptions are fundamentally different from proportionality, the latter being a principle and not a rule, involving judgment for its efficient application, while the former must be structured around thresholds, meaning that there are clear and unambiguous boundaries, with metrics to categorize a given undertaking on an "in or out" basis.

Within that context, we indeed believe exemptions should remain unambiguous rules structured around precise thresholds, and not subject to the discretion or judgment of the public authorities.

Question 21: Should all insurers publish a SFCR on a yearly basis? Please indicate if you agree or disagree with the following statements.

- Yes, all insurers should publish a SFCR on a yearly basis
- Yes, but some insurers should only be required to publish a summary of their SFCR on a yearly basis
- No, a yearly publication of the SFCR should not be required for some insurers**
- No, a yearly publication of the SFCR should not be required for any insurer
- Don't know/no opinion

Question 42: Should the European legislation introduce enhanced requirements for insurers to monitor and manage information and communication technology (ICT) risks, including cyber-risks as part of their risk management practices ("Pillar 2")?

- Yes**
- No

Don't know/no opinion

Question 43: Should the European legislation consider that cyber-insurance is a distinct class of insurance, which would need to be subject to its own authorisation process by public authorities?

Yes

No

Don't know/no opinion

Question 44: Should the legislation differentiate intragroup and extra-group outsourcing, and introduce “lighter” requirement in the former case?

Yes, but the lighter requirements should be conditioned to the satisfaction of some criteria at the level of the group, for instance appropriate centralized risk management processes and internal control mechanisms of the group

Yes, and those lighter requirements should not be conditioned to any additional criterion

No

Don't know/no opinion

Explanation:

To questions 42-44 on cyber insurance, FERMA explained that it would welcome further discussion with EIOPA on the topic. The responses to those questions are based on initial reactions and they would indeed benefit from further exploration.