MILLIMAN BRIEFING NOTE

The proportionality framework under Solvency II: Current knowledge and insights

EIOPA recently concluded its consultation on the new proportionality framework under the Solvency II Directive. This briefing note outlines the key provisions in the amended directive concerning proportionality and reflects the insights gathered during the consultation. These insights will inform EIOPA's final recommendations, which are expected to be shared before the end of January 2025.

Lucian Franzky, MSC
Joost Broens, MSC, FRM
Niels van der Laan, MSC, AAG

The updated proportionality framework under Solvency II aims to simplify regulatory requirements for small and non-complex undertakings (SNCUs) while providing options for larger undertakings under certain conditions.

In its recent consultation paper, EIOPA invited feedback on the clarity of the methodology for classifying insurers as SNCUs and the conditions for granting or withdrawing proportionality measures. The framework has been generally well-received within the sector, as it promotes a clearer and more consistent approach based on proportionality. By gathering input, EIOPA aims to ensure the framework is practical and efficiently applied across Member States, supporting a more tailored regulatory regime.

Background

The European Insurance and Occupational Pensions Authority (EIOPA) launched a public consultation in August 2024 to gather feedback on implementing the new proportionality framework under the Solvency II Directive.[1] This consultation followed a request from the European Commission on 30 April 2024[2] and focuses on the technical advice needed to operationalise the proportionality measures. These measures aim to simplify and tailor regulatory requirements for SNCUs while ensuring proportionality is applied consistently across Member States.

The consultation is part of the broader Solvency II Review process and comes in response to concerns about the burden regulatory requirements place on smaller insurers. Stakeholders had the opportunity to submit their comments by October 2024, with EIOPA expected to deliver its final technical advice by 31 January 2025. This advice will form the basis for the Level 2 text, which includes the detailed regulatory provisions necessary to implement the principles of the Level 1 amendments finalized in January 2024. The revised rules are anticipated to take effect no earlier than the beginning of 2027, providing insurers with ample preparation time.[3]

The Solvency II framework consists of three levels: Level 1 sets the overarching legal principles (in the directive), Level 2 provides detailed rules (in delegated acts) and technical standards, and Level 3 includes EIOPA's guidelines to promote consistent supervision.

Objective

The proportionality regime under Solvency II (SII) aims to reduce the regulatory burden on smaller, less complex insurance undertakings, such as regional or niche insurers, mutual insurance companies and captives. These entities typically operate with simpler business models, lower risk profiles and limited international exposure compared to larger, multinational insurers.

The new framework introduces a more targeted and risk-based approach, offering simplified compliance requirements for undertakings classified as SNCUs while also allowing for proportionality measures to be applied to larger insurers under specific conditions and subject to supervisory approval. Unlike

1. EIOPA (2 August 2024). EIOPA consults on new proportionality regime under Solvency II. Retrieved 7 January 2025 from https://www.eiopa.europa.eu/eiopa-consults-new-proportionality-regime-under-solvency-ii-2024-08-02_en.

2. European Commission. Request to EIOPA for technical advice on the review of specific items in the Solvency II Delegated Regulation. Retrieved 7 January 2025 from https://finance.ec.europa.eu/document/download/48789c5a-b143-4963-b6c2-56feaa413c67_en?filename=2404-request-eiopa-solvency2-review_en.pdf.

3. The provisional amendments to the Directive were already agreed upon by the European Parliament and Council in January 2024, which include significant amendments to Pillar I, II, and III requirements. For a comprehensive summary of these amendments, please see Amendments to the Solvency II Directive, at https://nl.milliman.com/nl-NL/insight/amendments-to-the-solvency-ii-directive.

existing national initiatives, such as the Dutch Solvency II Basic, which focuses on small insurers with minimal risk exposure, the new measures are designed to precisely align regulatory requirements with the nature, scale and complexity of risks across a broader range of insurers.

The framework marks a significant step towards addressing the fragmentation in current supervisory practices. While many Member States, including Germany, France, Ireland, Italy, the Netherlands and Spain, have implemented their own proportionality approaches, the lack of harmonisation has led to inconsistencies. The updated regime provides a unified methodology for SNCU classification and for granting or withdrawing proportionality measures, ensuring consistency and fairness across the EU. By reducing complexity, enhancing cost efficiency and maintaining appropriate oversight, the new proportionality framework supports a more diverse and resilient insurance market while ultimately benefiting policyholders.

Key takeaways from the amended SII Directive

CLASSIFICATION OF SNCU

Under the updated framework, insurers must meet a combination of quantitative and qualitative criteria to qualify as SNCUs. These criteria, outlined in the amended Solvency II Directive (new Article 29b), ensure that regulatory simplifications are appropriately targeted at undertakings with lower risk and operational complexity.

The thresholds are organised across five key dimensions, with the main requirements highlighted below:

- **Size**: Gross written premiums and technical provisions must remain below specific thresholds, reflecting the scale and nature of the insurer's operations. For non-life insurers, gross premiums must not exceed €100 million, while, for life insurers, technical provisions are capped at €1 billion. Additionally, reinsurance premiums must account for no more than 50% of total premiums.
- **Risk profile**: Eligible undertakings must demonstrate a limited exposure to significant risks. This includes ensuring that the sum of market risk, counterparty default risk and capital requirements for intangible assets does not exceed 20% of total investments. In addition to this criterion, life insurers must also ensure that interest rate risk remains below 5% of the total gross technical provisions.
- **Business complexity**: Insurers must operate with simple, largely domestic business models. Cross-border premiums (i.e., from a Member State other than the home country) must represent no more than 10% (or €20 million) of total gross premiums. For non-life insurers, premiums from high-risk segments—such as aircraft, ships, goods in transit, credit and suretyship—must not exceed 30% of total gross written premiums.
- **Structure and market presence**: To ensure that proportionality aligns with an insurer's limited systemic importance, undertakings must have a market share of less than 5% in the relevant market.[4] Additionally, insurers must currently operate under Solvency II requirements and there should be no recent major changes to the business structure.
- **Compliance and stability**: Eligible insurers must demonstrate a consistent record of regulatory compliance and financial stability. This includes:
  - Consecutive Solvency II compliance for at least the two most recent years.
  - No special supervisory oversight in place.
  - An average combined ratio below 100% over the past three years.

Insurers that meet these criteria will benefit from reduced reporting requirements and simplified approaches to solvency calculations, reflecting their lower risk and operational complexity. The intended methodology for determining SNCU classification is designed to minimise administrative burdens for both insurers and supervisory authorities, ensuring consistent and transparent application across Member States. This classification process promotes proportionality in a way that balances regulatory efficiency with the need for sound supervision.

For captive insurance and captive reinsurance undertakings, the requirements regarding cross-border premiums and reinsurance are not applicable.

PROPORTIONALITY MEASURES

The amended directive introduces a wide range of proportionality measures that focus on reporting, governance, computational issues and risk management, offering targeted simplifications in areas where the regulatory burden may otherwise be disproportionate to the risk profile of the SNCU. The key measures include:

Simplified reporting requirements

- SNCUs may report only quantitative data in their Solvency and Financial Condition Reports (SFCRs) that is relevant for market professionals. A full report, including all qualitative details, is required only every three years.
- The frequency of the Regular Supervisory Report (RSR) can be extended to up to five years. However, just as for the SFCR, quantitative data must still be updated and submitted annually.
- The frequency of the Own Risk and Solvency Assessment (ORSA) is reduced from annually to every two years. Also, the new climate change scenario analysis and macroprudential analysis are not mandatory.

4. Non-life market share is based on gross written premiums and the life market share is based on gross technical provisions.

Governance simplifications

- Key function holders are permitted to take on multiple roles, provided certain conditions are met. Previously, this arrangement was only allowed in exceptional cases. The amended directive now formalises it as part of the proportionality framework.
- Reviews of written policies, including those of risk management and internal audit, may now occur every five years instead of annually, unless supervisors require more frequent updates based on the undertaking's circumstances.

Computational simplifications

- SNCUs can use prudent deterministic approaches to calculate technical provisions for nonmaterial obligations that include options and guarantees This replaces the need for more complex and resource-intensive stochastic models.
- Undertakings may apply simplified methods to compute specific risk modules of the Solvency Capital Requirement (SCR) if they represent a minor portion of the overall capital requirement. Specifically, the relevant modules must account for less than 2% of the total SCR.

Risk management simplifications

- The amended directive introduces a new requirement for undertakings to prepare a liquidity risk management plan. However, SNCUs are exempt from drafting this plan, recognising their limited exposure to liquidity risks and simpler business models.

These measures reflect a clear effort to streamline compliance requirements for SNCUs without compromising the integrity of the regulatory framework. By targeting areas with a higher regulatory burden, such as reporting, governance and technical calculations, the measures aim to improve operational efficiency while maintaining a sound level of supervision and control.

SUPERVISORY APPROVAL FOR SNCU CLASSIFICATION

To apply proportionality measures, an undertaking must first obtain classification as a SNCU. This requires submitting a notification to the local supervisory authority, including:

- Confirmation and proof of compliance with all SNCU criteria.
- A declaration that no strategic changes are planned within the next three years that would result in nonconformance with any of the criteria.
- A list of proportionality measures the undertaking intends to implement, including plans to use the best estimate simplification or the simplified method for calculating technical provisions.

Once the notification has been submitted, the supervisory authority has two months to object to the classification.[5] Objections may only be raised on the grounds of:

- Nonconformance with the SNCU criteria
- Breach of the Solvency Capital Requirement
- Exceeding the relevant market share threshold

The objection must be clearly explained in writing. If no objections are filed within the two-month period, or if the supervisory authority confirms compliance, then the classification is approved, and all proportionality measures can be applied immediately.

The undertaking is from here on responsible for monitoring continued compliance with the criteria. If a criterion is no longer met, the undertaking must notify the supervisory authority immediately. If nonconformance persists for two consecutive years, the SNCU classification will be withdrawn at the start of the third year.

Additionally, the classification will cease at the start of the following financial year in cases where the undertaking introduces a (partial) internal model or becomes the parent of a group that no longer meets the SNCU criteria.

SUPERVISORY APPROVAL FOR NON-SNCUS

Undertakings that do not meet the criteria to qualify as SNCUs can still submit applications for specific proportionality measures. However, these measures can only be implemented after receiving prior approval from their national supervisory authorities, as stipulated in the amended Solvency II Directive (new Article 29d). These proportionality measures include:

- Reduced frequencies for the RSR, ORSA and updates to written policies.
- The combination of key functions, where appropriate.
- Exemption from macroprudential analysis in the ORSA.
- Use of prudent deterministic valuation for immaterial obligations with options and guarantees.
- Waiver of the new liquidity risk management plan.

Other measures, such as the exemption from climate change scenarios in the ORSA, cannot be applied for by non-SNCUs.

The approval process for non-SNCUs mirrors that for SNCUs. Undertakings must submit a formal request to their supervisory authorities, including:

- A list of the proportionality measures they intend to apply for with written justification explaining the appropriateness of these measures in light of their risk profiles.
- A declaration confirming that no strategic changes are planned within the next three years that could materially impact their risk profiles.
- Any other material information necessary to assess the proportionality request.

5. For requests submitted to supervisory authorities within the first six months following the entry into application of the new Directive, the two-month objection period shall be extended to four months.

Once the supervisory authority receives the request, it has two months to review and decide on approval or rejection.[6] If additional information is needed, the assessment period will reset and begin again once the requested information has been provided.

Supervisory authorities retain the right to amend or withdraw approval for proportionality measures at any time. Such decisions must be based on changes in the undertaking's risk profile and must be clearly explained in writing. This ensures that proportionality measures remain appropriately aligned with the insurer's risk and complexity over time.

EIOPA consultation

In its recent consultation on proportionality, EIOPA presented two key proposals and invited stakeholders to provide comprehensive feedback to ensure that the proportionality framework under Solvency II is clear, efficient and appropriately targeted. The consultation focused on the following areas:

- **Clarity and comprehensiveness of classification methodology**: Stakeholders were asked to evaluate whether the methodology outlined in the amended directive for classifying undertakings as SNCUs is clear, comprehensive and easy to implement. This included assessing whether the proposed criteria—such as thresholds for gross written premiums, technical provisions, and risk exposure—are sufficient to ensure proportionality measures are correctly applied.
- EIOPA's preferred approach is that the existing methodology remains unchanged and that national supervisors should be responsible for further practical implementation, guided by the text in the amendments. However, EIOPA remains open to suggestions for additional procedural specifications to enhance clarity and ease of use at its level.
- **Conditions for granting or withdrawing supervisory approval for non-SNCUs**: For undertakings that do not meet the SNCU classification criteria but wish to apply specific proportionality measures, EIOPA requested input on the conditions under which supervisory approval should be granted or withdrawn. EIOPA recognised that the absence of common, well-defined conditions could undermine legal certainty and contradict the goal of achieving supervisory convergence across the EU. Moreover, relying solely on a qualitative approach would impose a disproportionate administrative burden on supervisors and lack measurable thresholds.
- To address this, EIOPA proposed a hybrid approach that combines both quantitative and qualitative requirements. This hybrid model ensures that proportionality measures remain appropriately targeted, while reducing unnecessary complexity for supervisors. The conditions, which vary depending on the specific proportionality measure, include 19 proposed requirements in total. Five of these must be adhered to universally for all proportionality measures:[7]

1. The supervisory authority must have confidence that the undertaking can withstand its current and future risks without requiring more frequent assessments or ongoing supervisory interventions to address material Solvency II nonconformance.
2. The undertaking's business model must be simple (in terms of strategy, products and investments) and must not have undergone significant material changes in the past three financial years.
3. The undertaking must maintain a SCR exceeded by an appropriate margin, considering its medium-term capital management plan.
4. For technical provisions and premiums, life insurers must not exceed €15 billion in technical provisions, while non-life insurers must not surpass €2 billion in annual gross premiums. Additionally, the undertaking must not hold more than 5% market share in its relevant market.
5. No serious concerns regarding the undertaking's system of governance must have been identified by the supervisory authority within the last three financial years.

Beyond these two proposals, EIOPA sought stakeholder feedback on potential operational challenges or unexpected outcomes arising from the proportionality measures proposed in the amended directive. This includes identifying any obstacles to implementation or risks that might result from the new framework.

The overarching aim of the consultation is to strike the right balance between offering regulatory flexibility for smaller and less complex insurers while maintaining the need for robust supervision to safeguard financial stability and policyholder protection. By combining clear classification criteria with a hybrid model for supervisory approval, EIOPA hopes to ensure that the proportionality measures are consistent, transparent and capable of being applied across the EU in a harmonised manner.

6. For requests submitted to supervisory authorities within the first six months following the entry into application of the new Directive, the two-month objection period shall be extended to four months.

7. Further details on the measure-specific requirements can be found in the consultation paper or obtained by contacting the authors of this text.

Sector responses

To date, only a limited number of stakeholders have publicly shared their feedback on EIOPA's consultation paper. Among the responses received, notable contributions have come from Insurance Europe (IE, representing proprietary insurance companies), the Association of Mutual Insurers and Insurance Cooperatives in Europe (AMICE, representing mutual insurers and insurance cooperatives), and the Reinsurance Advisory Boards (RAB, representing reinsurance companies).

- IE underscores the importance of maintaining sufficient flexibility within the proportionality framework.[8] It stresses that overly strict or narrow criteria could unnecessarily restrict the applicability of proportionality measures, preventing insurers with legitimate claims from benefiting. IE emphasises that the framework must accommodate the diverse business models and operational structures seen across the European insurance sector.
- AMICE views the proposed proportionality framework as a significant improvement for mutual insurers and cooperatives, whose members often operate on a smaller scale with simpler risk profiles.[9] However, AMICE calls on EIOPA to provide clearer guidance to national supervisors to ensure that the proportionality measures are applied consistently across all Member States. Such consistency is crucial to avoid creating an uneven playing field and to ensure mutual insurers can compete fairly within the single market.
- The RAB raises concerns regarding the proposed reinsurance-related limits for qualification under the proportionality framework.[10] According to the RAB, reinsurance serves as a proven mechanism to simplify and stabilise an insurer's risk profile. As such, imposing limits on reinsurance exposure as a disqualifying factor contradicts the proportionality principle itself, potentially excluding undertakings that are otherwise low-risk. The RAB urges EIOPA to reconsider these thresholds to avoid unintended consequences.

Collectively, these responses reflect the sector's desire for a proportionality framework that is flexible, fair and efficiently aligned with the operational realities of various types of undertakings. Stakeholders agree that achieving consistency across Member States and refining certain thresholds are essential to ensure the framework fulfils its intended purpose of alleviating regulatory burdens without compromising supervisory oversight.

Conclusion

The proposed proportionality regime under Solvency II marks a significant step towards reducing the regulatory burden on smaller and less complex insurance undertakings. By replacing the fragmented and inconsistent proportionality approaches currently in place across individual Member States, the new framework aims to establish a more harmonised and balanced supervisory system. This will ensure a level playing field for small and non-complex undertakings while addressing their operational realities, without compromising regulatory oversight or policyholder protection.

Stakeholders have been encouraged to actively contribute to the consultation to ensure the framework reflects the diverse needs of the industry. The feedback gathered will shape EIOPA's final technical advice, which is expected to be submitted to the European Commission by end of January 2025. This advice will help finalise the delegated acts and form the foundation for the development of required technical standards under the revised Solvency II regime, accompanying the amended directive. The proportionality measures are anticipated to come into effect no earlier than the beginning of 2027.

For additional information, please refer to the consultation paper and related materials available on the EIOPA website.

8. Insurance Europe (25 October 2024). Response to EIOPA's consultation on the new proportionality regime under SII. Retrieved 7 January 2025 from https://insuranceeurope.eu/publications/3223/response-to-eiopa-s-consultation-on-the-new-proportionality-regime-under-sii/.

9. AMICE. Proposals for making proportionality work in Solvency II. Retrieved 7 January 2025 from https://www.insuranceeurope.eu/publications/1756/insurance-europe-and-amice-proposals-for-making-proportionality-work-in-solvency-ii/.

10. RAB (24 October 2024). RAB response to the EIOPA on technical advice on the implementation of the new proportionality framework under Solvency II. Retrieved 7 January 2025 from https://www.insuranceeurope.eu/mediaitem/44c78e28-2204-442f-84a1-83867a967e44/RAB-24-020.pdf.

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milliman.com

CONTACT

Lucian Franzky
lucian.franzky@milliman.com

Joost Broens
joost.broens@milliman.com

Niels van der Laan
niels.vanderlaan@milliman.com

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