February 26, 2025

Ms. Petra Hielkema
Chair
European Insurance and Occupational Pensions Authority (EIOPA)
Westhafenplatz 1
60327 Frankfurt am Main
Germany

Re: Consultation Paper on the proposal for Regulatory Technical Standards on management of sustainability risks including sustainability risk plans

Dear Ms. Hielkema:

The Institute of International Finance (IIF) and its insurance members appreciate the opportunity to respond to EIOPA's Consultation Paper on the proposal for Regulatory Technical Standards (RTS) on management of sustainability risks including sustainability risk plans (Consultation Paper).

We are including with our response to the Consultation Paper a copy of a recent IIF letter to the European Commission (EC) that discusses how EU policy reform can support competitiveness and sustainable prosperity. Our specific recommendations to the EC are guided by three cross-cutting principles, which we believe to be consistent with the EU's Competitiveness Compass:

- Simplify and reduce the extensive scope of ESG-related reporting requirements
- Streamline, ensure consistency and avoid duplication of requirements
- Align EU requirements as far as possible with international standards

We encourage EIOPA to reflect these principles in the RTS through amendments to the draft RTS that would better leverage existing elements of the Solvency II framework and other EU Directives, as well as the considerable implementation challenges outlined in this letter. Moreover, EIOPA Level 2 rulemaking measures, including RTS, should be aligned with any changes made through the Level 1 Omnibus process.

In response to the Consultation Paper, we respectfully offer the following comments for consideration:

Overarching Comments

EIOPA should proceed with its work on sustainability risks in a deliberate, measured and iterative manner, reflecting EC policies and initiatives related to implementation and simplification, and taking into consideration the broad range of initiatives underway on sustainability risks in the ESAs, the European Financial Reporting Advisory Group (EFRAG) pursuant to the European Sustainability Reporting Standards (ESRS), and the International Sustainability Standards Board (ISSB).

We respectfully submit that the proposed RTS, which introduces additional reporting within the established Solvency II framework, as well as a new set of metrics, would be misaligned with the EC's simplification strategy and duplicative of reporting under the Solvency II framework. The proposed approach to RTS in the Consultation Paper is not sufficiently reflective of the Solvency II framework and is overly complex, prescriptive and insufficiently risk-focused.

Section 3.8 of the Consultation Paper provides for a minimum list of metrics that is at cross-purposes with EIOPA's statement in **Paragraph 103** that any metrics should be principles-based. Moreover, it is unclear why a new set of prescriptive metrics within the context of Solvency II is needed.

We encourage EIOPA to adopt a simplified approach to the RTS, focusing on a streamlined package that does not contain prescriptive metrics.[1] The proposed metrics would require insurers to report on metrics that may not best capture the material risks to which they are subject and the reporting of such metrics could lead to an inaccurate or confusing description of the true risk profile of the insurer. Moreover, the proposed metrics are not ideal for determining financial materiality as they do not reflect the solvency impact. Insurers should have the flexibility to build on any work they perform under CSRD/ESRS to develop the metrics that are most useful and relevant for a Solvency II financial materiality analysis in light of their business models, activities, operations, and risks.

It is also critical to align the RTS with other important EU Directives such as the Corporate Sustainability Reporting Directive (CSRD) and the Corporate Sustainability Due Diligence Directive (CSDDD). Insurers should be allowed to use the financial materiality assessment conducted under the CSRD and pursuant to ESRS for the purposes of Solvency II. EIOPA's work should use the CSRD, including any revisions that may be made during the Omnibus process or in subsequent amendments or revisions, as the cornerstone for subsequent efforts with respect to sustainability reporting. Sufficient lead time should be given to allow the process to streamline the CSRD to proceed before addressing and implementing other regulations.

The scope of reporting should be strictly confined to material risks. In EIOPA's recent public event on this consultation, it was suggested that sustainability risk plans should encompass risks not considered material to insurers. We believe that this extensive scope of reporting is inappropriate and inconsistent with the financial materiality concept that is embedded in supervisory reporting for solvency purposes. We ask EIOPA to restrict the scope of reporting under the RTS (and more generally) to risks that are financially material to an insurer.

Materiality should be considered in light of the wider risk universe that is captured in the insurer's ORSA to avoid a disproportionate focus on sustainability risks when other risks may be more critical for the insurer.

Sustainability risks, to the extent material, should be incorporated into insurers' ORSAs. In the Solvency II framework, risk assessments under the Solvency Capital Requirement (SCR) are reflected in the ORSA. The ORSA enables insurers to evaluate and integrate all financially material risks, including sustainability-related risks, in a holistic manner. Information provided under the CSRD/ESRS should not be duplicated in the ORSA, in line with the 'report only once' principle.

It should be possible to integrate a sustainability risk plan into the ORSA, leveraging the information that is reported in the Regular Supervisory Report (RSR). It is not necessary or proportionate to promulgate a separate set of standards or guidance for stand-alone sustainability risk plans, which would lead to

[1] We note that Article 44 (2c) of the Solvency II Directive requires that EIOPA develops draft RTS to further specify *minimum standards and reference methodologies* but does not specifically require metrics.

redundant and duplicative reporting. Such a requirement could also create the inherent assumption that sustainability risks are material to all insurers, which is not necessarily accurate.

Any requirement for sustainability risk plans should reflect that they are risk management plans, not strategic transition plans. A clear distinction between the purposes of and conceptual underpinnings of the two types of plans should be carefully maintained. It should also be recognized that the financial risk-based analysis conducted through the ORSA may result in a decision by an insurer to increase its exposure to a particular sustainability-related risk (e.g. natural catastrophe underwriting risk) based on the company's risk appetite and its overall forward-looking strategies.

The double materiality inside-out construct, while perhaps appropriate for the consideration of broader sustainability risks, is not part of the Solvency II package, as it is inappropriate for the consideration of solvency risks. Therefore, the Consultation Paper should reflect only a single materiality, outside-in approach. An outside-in single materiality approach is more appropriate for micro-prudential solvency considerations under Solvency II and should be applied to the material sustainability risks that are reflected in the ORSA. Sustainability targets are strategic ambitions that are not suitable for risk management reports such as the ORSA.

Specific sustainability-related targets should not be required in sustainability risk plans but may be reflected in company transition plans. Targets should be confined to strategic transition plans, included at the discretion of the insurer, and not subject to public disclosure requirements given the substantial reputational and litigation risks that may result from their disclosure.

The proposal to include targets in sustainability risk plans seems to imply that insurers should reduce their sustainability exposures across the board and in all cases. Reducing sustainability exposures across the board may conflict with policyholder interests and exacerbate insurance protection gaps. On the asset side of the balance sheet, it may reduce investment support to those sectors and industries most in need of financing for the net zero transition.

The scope of any RTS should be strictly limited to climate-related risks. There are considerable implementation challenges to the consideration of broader sustainability risks that make their consideration in the RTS premature. These include the lack of adoption of the Kunming-Montreal Global Biodiversity Framework (GBF), significant gaps in data availability and methodological challenges, the tradeoffs between climate and nature priorities (e.g. the negative impacts on nature from the mining of minerals critical to the development of renewable energy sources) and the need for integrated approaches to reflect biodiversity, water, food, health and climate issues. Given these complexities, work on biodiversity and broader sustainability topics requires substantial additional industry and expert input before progressing to specific proposals.

Implementation of the GBF to date has been hampered by a number of factors. There is no universal measurement unit for nature impacts and biodiversity issues are inherently localized and context-dependent, making individual company actions difficult to link to global or jurisdictional goals. Portfolio-level aggregation is particularly challenging due to the location-specific nature of biodiversity impacts.

Challenges related to the consideration of broader sustainability risks also require the consideration of jurisdictional specificities. Nature impacts are not fungible across regions. In contrast, carbon emissions have the same environmental impact regardless of the location of the emissions. As a result, the use of climate frameworks for the assessment of biodiversity risks may not be appropriate. The dependency metrics that are proposed in the Consultation Paper (i.e. based on the ENCORE database on dependencies) are unduly prescriptive and fail to reflect that high dependence does not directly translate into an exposure or risk to an insurer, and may not fully reflect the availability of management actions to mitigate any risks.

It will be very challenging, at least in the early years, to perform extensive quantitative risk assessments on all sustainability risks over the suggested time horizons. Given the significant challenges of performing extensive quantitative risk assessments on all sustainability risks over a range of time horizons, an insurer should have sufficient flexibility to determine and provide what it considers to be a useful analysis, considering data and model challenges.

The recent changes to European Banking Authority (EBA) guidelines may be helpful to EIOPA in advancing any RTS on sustainability risks. Considering the recent amendments to EBA guidance would advance better coordination of policies at the EU and national levels, which is one of the five horizontal enablers for competitiveness under the EC Competitiveness Compass.

Importantly, we note that the EBA guidelines focus on sustainability opportunities (e.g. the development of new products and lines of business) in addition to the risks, a focus that is lacking in the Consultation Paper. The Consultation Paper could be strengthened by following the EBA's approach of examining both risks and opportunities, including those that may have a positive impact on closing protection gaps.

Another important distinction between the EBA guidelines and the Consultation Paper relates to public disclosure. The EBA does not require disclosure of prudential transition plans beyond what may be required under other EU reporting requirements. EIOPA should rationalize the proposed sustainability risk public disclosure requirements in **Section 5** of the Consultation Paper in light of a clear need for investor information while taking into consideration the considerable legal and reputational risks that arise from extensive public disclosure requirements given data and methodological limitations related to sustainability risks. We appreciate the recognition of the differentiation between publicly relevant information and information that should support the supervisory review in a confidential manner in **Paragraph 130**. EIOPA may wish to revisit the scope of public disclosure and consider if its objectives could be met through confidential supervisory review.

The EBA guidelines do not require the alignment of portfolios with EU objectives but, rather, require banking organizations to measure and monitor the degree of alignment as an input to strategy and risk management decision making in relation to climate risk. Moreover, the EBA guidelines do not prescribe a specific climate or ESG objective and provide the flexibility for banking organizations to reflect the regulatory ESG objectives in the jurisdictions in which they operate. This flexibility allows banking groups with operations in non-EU jurisdictions to reflect the diversity of views and practices on ESG-related matters that exist across a wide range of countries. We encourage EIOPA to provide this flexibility through the RTS.

EIOPA should take into consideration the different approaches to sustainability across jurisdictions. National discussions around sustainability goals, how best to achieve them, and appropriate timelines for achieving these goals vary widely across jurisdictions. EIOPA should reflect in the RTS and in its work more broadly the impact of these cross-border dynamics on the ability of insurers to comply with prescriptive and extensive EU obligations while conducting significant activities in jurisdictions, such as the U.S., which are adopting a very different approach to sustainability. These dynamics impact public disclosure in particular, as actions that may be appropriate and considered laudable in the EU (e.g. insurers dropping coverage of carbon-intensive industries or sectors) may be treated negatively in another jurisdiction, leading to regulatory, reputational and legal risks.

Other Specific Comments on the Consultation Paper

Table 3 calls for undertakings to identify potential exposure of assets or lines of business or insured risks to potential sustainability risks based on the impact of the investee, supply chain dependencies of the investee, or the policyholder's economic activity or their dependency on environmental or social factors, focusing not only on climate-related sectors such as the oil, gas, mining and transportation sectors, but also on sectors that may be indirectly affected by transition risks. These broad requirements fail to reflect the considerable informational challenges faced by insurance undertakings in understanding and reflecting in their sustainability risk exposure assessments investee or policyholder activities or behavior. If EIOPA takes such an expansive approach to these requirements despite these informational challenges, it could expose insurers to litigation and reputational risks.[2]

The extension of these proposed obligations to biodiversity footprint and nature-related risk factors and economic activities in 'high risk social sectors' is beyond the current capacity of most insurers and any such requirements should be approached in an iterative fashion with more extensive *ex ante* industry consultation. We encourage EIOPA to limit its present work to climate-related risks and to postpone the consideration of broader sustainability issues until further work and consultation has taken place.

Table 4 reflects different approaches to defining short, medium, and long-term time horizons for managing material climate-related financial impacts. This fragmented approach gives rise to different risk management analyses for different regulatory regimes, which greatly complicates supervisory reporting and public disclosure by introducing inconsistencies that must be reconciled. We encourage EIOPA to provide insurers with the flexibility to determine the time horizons that are most decision-useful and reflective of their business models, activities, and risks. This flexible approach is consistent with reporting under the ORSA. It should be recognized that other reporting requirements and frameworks use different time horizons, which further complicate efforts to align and compare different reports.

The requirement in **Paragraph 116** for undertakings to demonstrate the reliability of management actions to mitigate material financial risks does not reflect that how and when an insurer should take into consideration management actions is already set forth in the SCR and embedded in the Solvency II framework. The consideration of management actions should not and need not be redefined for sustainability risks. Adopting a different standard for management actions in the SCR and for sustainability would introduce considerable uncertainty for both insurers and supervisors where it is already challenging to demonstrate the reliability of management actions given the range of (often dynamic) external factors of market conditions that are beyond the control of the insurer.

[2] Moreover, **Paragraph 79** reflects that some of this work is underway by the NGFS, and that additional analysis remains to be conducted. EIOPA should consider the results of that analysis in finalizing the RTS.

Chapter 4, Supervisory Approach, should specifically reflect the opportunities that may arise from sustainability issues as well as the risks, an observation that can be applied throughout the Consultation Paper, as noted in our overarching comments. Indeed, risk is an integral part of the insurance business and cannot and should not be avoided but, rather, should be properly managed in order to realize prudent business opportunities to expand insurance product offerings that can benefit insurers and policyholders alike, as well as address increasing insurance protection gaps. Insurers may choose to increase certain sustainability risks, such as cover for natural catastrophe risks, or expand investments in transitioning sectors, if these actions align with their strategy and risk appetite. These actions should not be discouraged, as they may contribute to reducing insurance protection gaps in an appropriate, risk-focused manner.

Paragraph 125 states that 'an undertaking that does not implement the targeted risk management actions set out and disclosed as part of the sustainability risk plans, is misrepresenting its actual risk profile.' A failure to implement targeted risk management actions should be reported to supervisors promptly along with the reasons for non-implementation. As noted above, there are a range of external factors or market conditions outside of the control of the insurer that may give rise to a failure to implement targeted risk management actions. The Paragraph, as currently drafted, would expose insurers to considerable regulatory risk and, to the extent these targeted actions would require public disclosure, to significant reputational and legal risks. Accordingly, we recommend that EIOPA delete this Paragraph from the Consultation Paper.

With respect to the discussion of public disclosure in **Paragraph 130**, EIOPA should clarify that insurers making public disclosures under the CSRD are not required to duplicate that disclosure through the Solvency and Financial Condition Report (SFCR). It may also be helpful to differentiate the supervisory reporting through the RSR from the public disclosure through the SFCR and to reflect that, in general, only a high-level summary of information reported to supervisors through the RSR is contained in the SFCR.

We appreciate the opportunity to comment on the Consultation Paper and we would greatly appreciate a further discussion with EIOPA on these important topics.

Respectfully submitted,

MF Monroe

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