

BIPAR Update

8 September 2021

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European Federation of Insurance Intermediaries

Commission

INSIDE THIS ISSUE

1. Solvency II review and Insurance Guarantee schemes in the EU - Update
2. FinTech/InsurTech - Dutch central bank report: new supervision model needed due to rise of BigTechs in financial services sector
3. UK Temporary Permission Regime for EEA firms - Update
4. Petra Hielkema starts as new Chairperson of EIOPA

1. Solvency II review and Insurance Guarantee schemes in the EU – Update

The Solvency II Directive provides that some areas must be reviewed by the Commission (e.g. methods, assumptions and standard parameters used when calculating the Solvency Capital Requirement standard formula). Other parts of the Solvency II framework have been identified as deserving a reassessment, such as the possible need of minimum harmonised rules on Insurance Guarantee Schemes (IGS).

In February 2019, the European Commission requested EIOPA to provide a technical advice on the review of the Solvency II Directive and in particular on whether there is a need for minimum harmonisation rules (role and functioning of IGSs, geographic coverage, cross-border coordination mechanisms, eligible policies, eligible claimants, funding). In the context of cross border services, the Commission asked EIOPA whether harmonised rules on IGSs would enable a recourse to IGS of the home Member State, in order to protect policyholders in the other Member States where the undertaking is operating.

In its technical advice, EIOPA proposed to introduce a European network of national IGSs or alternative mechanisms that should meet a minimum set of harmonised features for the benefit of policyholders and financial stability as a whole. IGSs or alternative mechanisms should act with the primary aim to protect policyholders, paying compensation and/or ensure the continuation of insurance policies. Their geographical coverage should be based on the home-country principle and should concern specific life policies and non-life policies agreed at EU level with a harmonised minimum coverage. The IGSs or the alternative mechanisms should be funded based on ex-ante contributions by insurers, possibly complemented by ex-post funding arrangements in case of capital shortfalls. Further work is needed in relation to specific situations where a pure ex-post funding model could potentially work, subject to adequate safeguards.

In June 2021, during a meeting of EIOPA Board of Supervisors, the Commission explained that it is working on the finalisation of the SII review package and is targeting 30 September for adoption. The September package will be composed of a proposed Directive amending the Solvency II level I and a communication on how changes to level II will be approached. A separate legal act will also be presented on recovery and resolution.

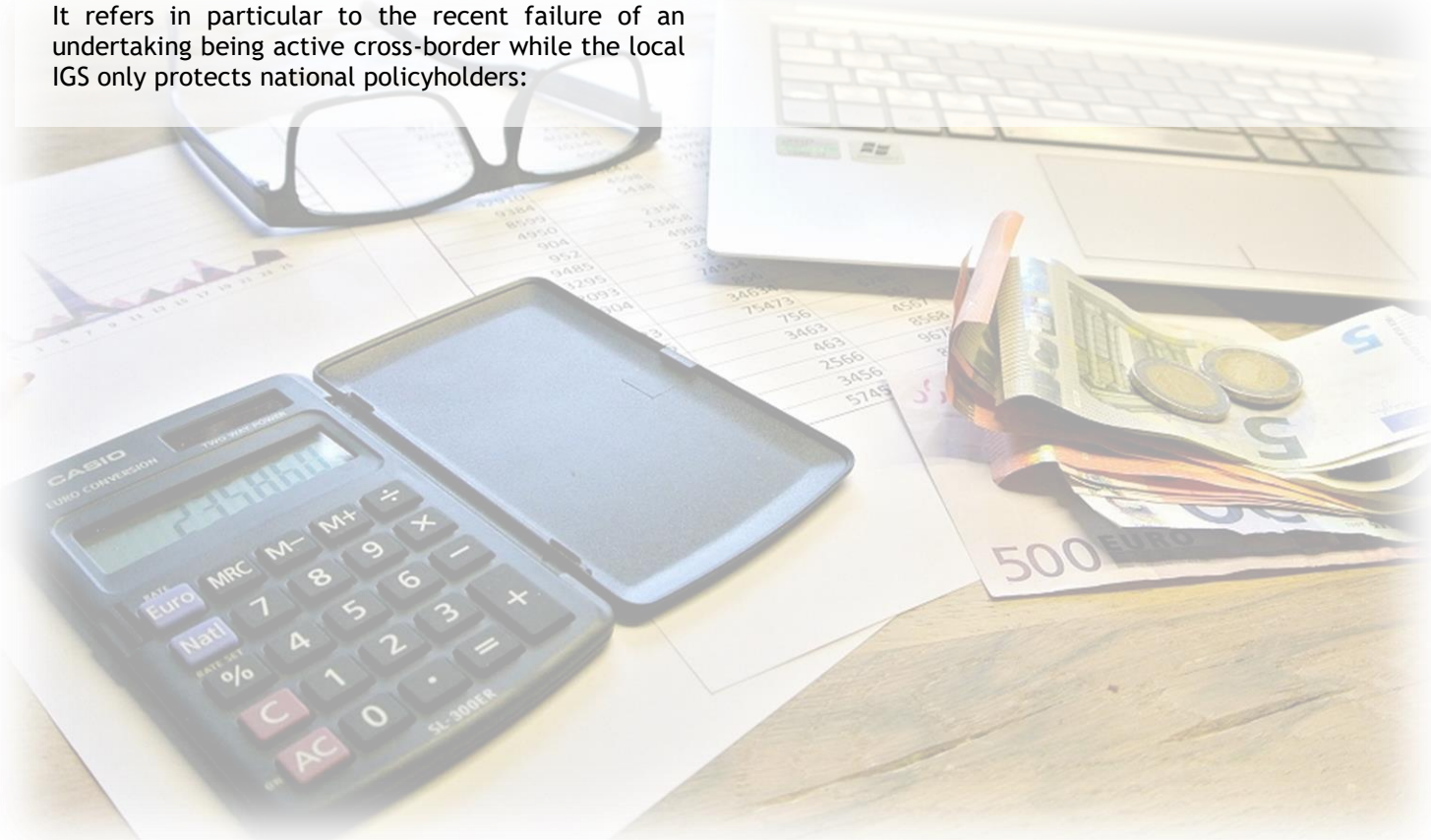
However, the package will not include a proposal on insurance guarantee schemes at this stage. The discussions on IGS have been postponed. Due to the prioritisation of work at the Commission level, currently with focus on recovery, the Commission is also very mindful of the possible implementation costs that such IGS proposal would add to the industry in the Covid environment. Therefore, the Commission is thinking that any further attempt to harmonise the IGS should happen at a later stage.

Following that information, on 16 June, [EIOPA sent a letter to the ECOFIN President](#) at the time, Mr João Leão, Portuguese Finance Minister - before Portugal handed the rotating presidency of the Council of EU governments over to Slovenia - **expressing its desire that the Commission should put forward a legislative proposal on IGS under the current review of SII and not to further postpone the file to ensure the same level of policyholder protection throughout the EU.** It refers in particular to the recent failure of an undertaking being active cross-border while the local IGS only protects national policyholders:

“This situation clearly leads to unequal treatment of Gefion’s policyholders and could have serious implications for the trust that EU citizens have in the proper functioning of the single market. It also distorts the level playing field between the different sectors in the financial market as the banking and investment sectors have harmonised EU rules for the protection of deposits and investment funds.

EIOPA greatly appreciates your attention to this matter and would welcome if the European Commission continues to discuss the need for harmonisation of national IGSs at EU level under the current review of the Solvency II framework with urgency, ensuring a European network of national IGSs, which is sufficiently harmonised. European policyholders should be able to rely on the European Union safeguards, protecting their interests in an equal and fair way across the Single market.”

In its response to EIOPA consultation on IGS in 2019, BIPAR explains “that mechanisms with similar or harmonized standards should be put in place in all EU Member States to protect private policyholders, as this would support a drive towards a single market and neutralise bias. We believe that recent developments like some EU countries where the national IGS will only compensate the customers of those countries, could pose a threat to the objective of creating a single market and to competition”.



2. FinTech/InsurTech – Dutch central bank report: new supervision model needed due to rise of BigTechs in financial services sector

The Dutch central bank, De Nederlandsche Bank, has published a [report](#) on the developments in the relationships between BigTechs and financial institutions: “*Changing landscape, changing supervision*”.

According to the DNB’s report, the rising importance of BigTechs in the financial sector may lead to radical changes in the financial landscape. While financial institutions enjoy higher customer trust, BigTechs are boosting innovation and driving efficiency in financial services. Their increasing prominence may lead to concentration risk. This requires a review of regulations and supervisory strategies.

The report also says that in the Netherlands and elsewhere in Europe, cooperation between BigTechs and financial institutions is mainly focused on improving digital convenience of payment services, while credit provision services are limited. At global level, financial institutions are increasingly purchasing cloud services from BigTechs. Advanced data analysis techniques combining financial and non-financial customer data are increasingly being used. Cross-border services are also growing, aided by digitalisation and “platformisation”.

According to the DNB report, financial services are relevant for BigTechs, because new services allow them to strengthen their platforms. **By using the data that become available from the use of financial services, they can improve their services, attract more users and increase their revenues.** Joining forces with financial institutions also allows BigTechs to offer financial services **without becoming subject to financial supervision themselves**, while at the same time **benefiting from consumers’ higher levels of confidence in banks and insurers.** Moreover, cooperation is also attractive to financial institutions, since **BigTechs can support them in providing more digital convenience to their customers**, and cooperation can also **increase their market shares.** Cooperation in the **cloud** can help financial institutions enhance their innovative power, flexibility, and efficiency.



Regarding the **potential impact of partnerships in the Dutch market**, the report explains that this varies depending on the sub-market. Cooperation with banks is having a fairly high impact on payment services, where Dutch banks are already working with BigTechs. The credit market also has great potential for partnerships. **In the case of insurers, partnerships can have a major impact on non-life insurance**, where cooperation increases the scope for innovation in the production chain, for example **through larger-scale distribution, more efficient and user-friendly handling of claims using AI.** **Synergy benefits can also be achieved between insurance products and user data on smart devices.** The impact of partnerships on the Dutch life insurance market is probably very limited due to the sustained contraction of this market.

The report further explains that **BigTechs could turn comparison platforms into gatekeepers, making them the dominant platforms through which insurance is sold.** BigTechs could also increase competition in non-life products by entering the market in cooperation with a foreign insurer or reinsurer. In the Dutch insurance market, around 60% of policies are arranged online. “Platformisation” is also already occurring around a quarter of non-life policies are arranged through comparison sites and insurers are seeking to cooperate with other operators’ platforms.

As platforms are used increasingly frequently, market concentration levels in financial services are rising. **DNB makes reference to the EU rules and regulations being developed to manage the associated concentration risks in the areas of data privacy and data sovereignty, security and operational resilience, such as the Digital Operational Resilience Act (DORA), the Act on Crypto-Assets (MiCA), Digital Markets Act (DMA), Digital Services Act (DSA).** Potential misuse of market power by platforms is another point of attention.

The financial market of the future also depends on the development of relations between BigTechs, banks and insurers. Will the role of BigTechs continue to be limited to facilitating technological and innovative developments, or will they take over control of customer relationships as key distribution channels for financial services? Will financial institutions be able to continue to keep up with the pace of innovation as they were able to do in the past?

The report sets out **four possible scenarios for the future**, but the likelihood of any particular scenario cannot be predicted. 1/If banks and insurers are able to harness sufficient innovative power and BigTechs focus on providing cloud services, financial institutions may be able to shape innovation in financial services, based on their own financial platforms (Innovative finance). 2/If financial institutions are unable to harness their innovative power, they may become dependent on the BigTechs, that will distribute financial services of banks and insurers of their choice from their own broad platforms. In selecting these financial institutions, BigTechs will use their dominant position in negotiating agreements about turnover, prices and services (BigTech in charge). 3/Innovative financial institutions may also create their own platforms compete for customers with vertically integrated BigTechs that have broad platforms (In competition). 4/The fourth scenario sketches a market with low dynamics due to lack of innovative power on the part of financial institutions and lack of interest for financial services on the part of BigTechs (Traditional finance).

The DNB report concludes that the relevant **regulatory frameworks need to be adjusted** to address concentration risks in the areas of financial services (dependence on small group of service providers), the distribution of financial products and services (platform's mis-selling or reputational damage may damage trust in the financial system) and access to consumer data. Competition regulations are focused not so much on tackling the concentration of platforms as on preventing abuse of market power by large platforms, including possible lock-ins of customers or users. In the context of the financial sector, however, **large, concentrated platforms can cause risks to financial stability, even if these platforms comply with competition rules.** Additional financial regulation must also be considered with regard to the distribution of financial products and services by large platforms. In the longer term, the continuity and resolvability of systemically important BigTechs and distribution platforms may also demand attention. In addition, a **more level playing field for access to personal data** can be created by giving consumers actual control over their personal data and who will have access to which personal data. It is also necessary to consider how access to and sharing of non-personal data can be improved. Data spaces can play an important role in this.

Furthermore, **financial supervision of BigTechs at the EU level is essential.** The changing market conditions require a **shift in the supervisory authority's attention from a focus on outsourcing to a broader view encompassing all external contractual relations of importance to an institution.** The forthcoming DORA introduces oversight of service providers that are critical for the financial system, regardless of whether the services they provide are a form of outsourcing. DNB is also working with the Netherlands Authority for the Financial Markets (AFM) on the opinion on Digital Finance to be submitted by the European supervisory authorities (ESAs) to the European Commission later this year. Finally, an increasingly platform-based financial sector and economy require closer **cooperation between supervisory authorities.** Individual supervisory authorities with mandates in the areas of financial services, cybersecurity, data protection, competition should intensify their cooperation to enable more comprehensive supervision.

3. UK Temporary Permission Regime for EEA firms – Update

The UK left the EU on 31 January 2020. EEA-based firms can therefore no longer passport into the UK.

As part of the UK's withdrawal from the EU, the UK Government established the Temporary Permissions Regime (TPR) for firms based in the EEA. The TPR allows EEA-based firms that were passporting into the UK by 31 December 2020, to continue operating in the UK within the scope of their previous passport permission on a temporary basis, while they wait to be called by the Financial Conduct Authority (FCA) to submit their applications for full UK authorisation (if they want to).

EEA insurance intermediaries who had UK clients and wished to continue to service these clients and/or take on new UK clients, are currently doing so under the UK TPR.

The TPR is now winding down: EEA intermediaries using the TPR will soon be allocated a landing slot by the FCA. Once this happens, the intermediary will need to decide on its next steps: exiting the UK market or getting full authorised in the UK.

Please also note that the FCA has prepared the document below that "is intended to help international firms understand our expectations as they prepare for their applications for full UK authorisation. This could help inform firms' decision about how they might want to structure their businesses to provide regulated financial services in the UK."

[Our Approach to International Firms](https://www.fca.org.uk) (fca.org.uk)

4. Petra Hielkema starts as new Chairperson of EIOPA

On 1 September 2021, Petra Hielkema took up her function as Chairperson of EIOPA (see earlier article on her election in the BIPAR Update of 20 May).

On this occasion, Mrs. Hielkema, said: *"It is a great honour to take up this important role, at such a challenging time. Climate change, recovery from the pandemic and digitalisation are all huge challenges for society, but they are also all areas where insurance companies and pension fund providers can play a significant role in mitigating*



the risks and fostering a more resilient society. I am looking forward to working together with the members of the Board of Supervisors, consumer groups, industry, policymakers and the committed staff of this well-functioning organisation with a common goal - protection of European consumers and beneficiaries and financial stability."

BIPAR already congratulated Mrs. Hielkema with her appointment and she will be invited to one of the BIPAR meetings in the near future.

Mrs. Hielkema will serve as Chairperson of EIOPA for a period of five years. This term can be renewed once.

Her bio can be found [here](#).