

Consultation
Paper

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CONSULTATION PAPER

SUPERVISORY STATEMENT ON EXCLUSIONS IN
INSURANCE PRODUCTS RELATED TO RISKS
ARISING FROM SYSTEMIC EVENTS



eiopa

European Insurance and
Occupational Pensions Authority

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RESPONDING TO THIS PAPER

EIOPA welcomes comments on the Consultation paper on the supervisory statement on exclusions in insurance products related to risks arising from systemic events.

Comments are most helpful if they:

- ▶ respond to the question stated, where applicable;
- ▶ contain a clear rationale; and
- ▶ describe any alternatives EIOPA should consider.

Please send your comments to EIOPA in the provided Template for Comments, by using the dedicated Eu Survey ([LINK](#)), by 18 July 2022.

Contributions not provided in the template for comments, or sent to a different email address, or after the deadline will not be processed.

Publication of responses

Your responses will be published on the EIOPA website unless: you request to treat them confidential, or they are unlawful, or they would infringe the rights of any third party. Please, indicate clearly and prominently in your submission any part you do not wish to be publicly disclosed. EIOPA may also publish a summary of the survey input received on its website.

Please note that EIOPA is subject to Regulation (EC) No 1049/2001 regarding public access to documents and EIOPA's rules on public access to documents¹.

Declaration by the contributor

By sending your contribution to EIOPA you consent to publication of all information in your contribution in whole/in part – as indicated in your responses, including to the publication of your name/the name of your organisation, and you thereby declare that nothing within your response is unlawful or would infringe the rights of any third party in a manner that would prevent the publication.

Data protection

Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published. EIOPA, as a European Authority, will process any

¹ [Public Access to Documents](#)

personal data in line with Regulation (EU) 2018/1725. More information on how personal data are treated can be found in the privacy statement at the end of this material.

1. LEGAL BASIS

- 1.1. The European Insurance and Occupational Pensions Authority (EIOPA) provides this Supervisory Statement on the basis of Article 29(2) of Regulation (EU) No 1094/2010². This Article mandates EIOPA to play an active role in building a common Union supervisory culture and consistent supervisory practices, as well as in ensuring uniform procedures and consistent approaches throughout the Union
- 1.2. EIOPA delivers this Supervisory Statement on the basis of Chapter V of Directive (EU) 2016/97³ (IDD) and Commission Delegated Regulation (EU) 2017/2358⁴ (POG Delegated Regulation).
- 1.3. This Supervisory Statement is addressed to the competent authorities⁵, as defined in Article 4(2) of Regulation (EU) No 1094/2010.
- 1.4. (Placeholder: The Board of Supervisors has adopted this Supervisory Statement in accordance with Article 2(7) of its Rules of Procedure⁶)

2. CONTEXT AND OBJECTIVE

- 2.1. Pandemics, climate change or large cyber-attacks are examples of systemic events. These are defined⁷ as severe events which cause broad-based disruptions, significant adverse effects to public health or safety, to the economy or to national security. In the wake of such events, other financial risks develop as a result of increasing insolvencies or vulnerabilities, making society prone to suffer from indirect impacts as well direct ones, further increasing vulnerability and ultimately resulting in a loss of trust from consumers and capital.
- 2.2. Following these events, there is an increasing risk that insurance products may become unaffordable, or unavailable for these events. There is also a risk that products which may have had originally covered these events and/or which may have been silent in relation to coverage for these events may explicitly exclude them.

² Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

³ Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19)

⁴ Commission Delegated Regulation (EU) 2017/2358 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors (OJ L 341, 20.12.2017, p. 1).

⁵ Notwithstanding the fact that specific points of this Supervisory Statement describes supervisory expectations for insurance undertakings and insurance intermediaries, they are required to comply with the regulatory and supervisory framework applied by their competent authority based on Union or national law.

⁶ Decision adopting the Rules of Procedure of EIOPA's Board of Supervisors, available at: https://www.eiopa.europa.eu/sites/default/files/publications/administrative/bos-rules_of_procedure.pdf

⁷ EIOPA staff paper on measures to improve the insurability of business interruption in light of pandemics, 12 February 2021. Available at: [EIOPA publications](#). This followed the publication of [Issues paper on shared resilience solutions for pandemic risks, 27 July 2020](#) and EIOPA engagement of further technical analysis, in exchange with European Commission and industry representatives.

- 2.3. For example, the COVID-19 pandemic crisis unveiled issues in relation to clarity and possible protection gaps for non-damage business interruption insurance coverage and travel insurance coverage. Climate change heightens the risk of an increase in the current insurance protection gap for natural catastrophes. The current invasion of Ukraine by Russian forces, which increases the risk of cyberattacks, also highlights the risks that cyber protection gaps may increase as cyber risks may become unaffordable or uninsurable.
- 2.4. Beyond the above considerations, these systemic events also underlined increasing consumer detriment in light of ambiguous contractual terms and lack of clarity on whether losses arising from such events are covered leading to disputes between policyholders and insurance undertakings, reputational risks for the sector and significant losses for all parties involved. With the aim to limit disputes and to avoid losses due to ambiguous contractual terms when such events materialise insurers review of their terms and conditions may not be carried out in accordance with product oversight and governance (POG)⁸ process, which would ensure that consumers' interests and needs are balanced vis-à-vis other business needs and considerations.
- 2.5. This creates an expectation gap which can be significantly detrimental to consumers and indirectly to the sector at large in view of reputational impacts and political exposure.
- 2.6. Clear communication and disclosure to potential policyholders on the scope of the coverage and level of protection offered by insurance policies is crucial, in order to avoid a mis-match between policyholders' expectations and actual coverage provided.
- 2.7. While the key issues in relation to exclusions vary across lines of business, National Competent Authorities (NCAs) observed the following:
- ▶ **Product complexity and unclear policy wording in insurance contracts magnify uncertainty over the insurance coverage and increase consumer complaints and legal disputes.** For instance, during the pandemic it has been observed that product complexity and unclear policy wording has generally led to a number of complaints, often resulting in court disputes. This not only generated uncertainties for insurance undertakings but also led to consumer detriment. A sample-based study carried out by EIOPA on travel insurance shows that the pandemic has also had a negative effect on how consumers perceive insurance.
 - ▶ **Following systemic events, manufacturers often review existing products to clarify wording on exclusions or to include new exclusions.** Issues may arise in the disclosure of these changes to policyholders and consumers' understanding of the coverage provided. Concerns also exist in relation to adequate and sufficient application of POG either as to whether the product review process has been followed or as to whether these changes constitute significant adaptations. In case of insurers reviewing products or including new exclusion to limit their

⁸ Article 25(1) of the Directive 2016/97/EU (Insurance Distribution Directive – IDD)

losses, the lack of a proper POG process could result in insurers disregarding possible detriment for consumers.

- ▶ **New products being advertised as offering protection for systemic risk but issues with consumers' expectations have been identified.** Consumers often rely on advertising practices and marketing material which clearly state that the relevant event is covered, without fully assessing what is covered or not (e.g. for COVID-19 issues have been observed in relation to products which generally advertise covering this risk whilst in practice only covering hospitalisation and not covering other expenses such as forced quarantines or cancellations).

EIOPA and National Competent Authorities (NCAs) work

- 2.8. EIOPA's and NCAs' market monitoring activities have explored the treatment of pandemic exclusions. As a consequence, Union-wide Strategic Supervisory Priorities (USSPs) for 2021-2023 identified issues in relation to exclusions from insurance coverage as an area of strategic priority.
- 2.9. The aim of this Supervisory Statement is to promote supervisory convergence in the approach by NCAs on the treatment of exclusions of risks arising from systemic events in insurance contracts from a consumer protection and conduct perspective. This Supervisory Statement is of general application and also covers issues, inter alia, identified in the COVID-19 pandemic and issues which could emerge in relation to the current invasion of Ukraine by Russian forces.

3. SUPERVISORY EXPECTATIONS

- 3.1. In light of the market monitoring duties and POG requirements under the IDD, EIOPA recommends NCAs to dedicate higher attention, where appropriate, to insurance manufacturers' assessment of the terms and conditions of their existing insurance products, to the extent such products have been impacted by the COVID-19 pandemic, the current invasion of Ukraine or other systemic events such as natural catastrophes. The aim of this assessment should be to assess whether the applicable exclusions from coverage are clear, and contract clarity is ensured for policyholders, taking into account the target market's characteristics and level of understanding of insurance products.
- 3.2. In cases where issues have been identified, insurance manufacturers are expected to take the necessary measures to address the lack of clarity for policyholders.
- 3.3. Moreover, if the risk arising from a systemic event, becomes uninsurable or there is limited clarity as to whether the risk is covered or not, insurance manufacturers are expected to make an assessment of the terms and conditions and of the scope of coverage taking into account the needs, objectives and characteristics of the identified target market. If the assessment shows that coverage is unclear and/or because the event has become uninsurable they need to revise coverage, they should follow the steps outlined below.

Communication with consumers in general

- 3.4. Consumers should benefit from the same level of protection and clarity in the insurance contract irrespective of distribution channels.
- 3.5. Notwithstanding national civil and insurance contract laws, insurance distributors are expected to communicate with existing or potential policyholders in a clear manner and avoid misleading information regarding the actual cover provided⁹.
- 3.6. When drafting exclusions insurance manufacturers should avoid vague terms or complex wording that consumers might not understand. Vague wording like “full coverage”, “complete coverage” or “similar events” can be misleading given there is no common understanding on what it is actually included in the coverage and/or how could events be associated with one another and this could result into a mis-match between consumers’ expectations and the actual coverage provided.
- 3.7. When selling insurance products, insurance distributors should ensure they adequately and sufficiently assess the product’s exclusions vis-à-vis consumers’ demands and needs.
- 3.8. Exclusions in insurance policies should be clear so that consumers can understand whether coverage for a risk arising from a systemic event is provided in their insurance product. In case that insurance manufacturers and insurance distributors list one or more events to exemplify exclusions related to systemic events, they should list a reasonable number of events that were foreseeable of being excluded when the latest version of terms and conditions was drafted. Each example of event should be pertinent to the identified target market rather than general in nature and the number of examples used should ensure that consumers clearly understand the scope of the exclusion (for instance, avoid listing some examples of systemic events that could suggest that others are covered when they are not).
- 3.9. Insurance manufacturers and insurance distributors should also clearly state if the scope and the type of coverage provided relates to direct and/or indirect losses caused by systemic events.
- 3.10. Where relevant, manufactures should pay special attention to insurance product information document (IPID) with a particular focus on “What is insured?” and “What is not insured?” sections. Language should be plain and jargon should be avoided, facilitating the customer's understanding of the content of that document and shall focus on key information which the customer needs to make an informed decision. Icons should be compliant with legal requirement and should not mislead¹⁰.

⁹ Article 17(2) of the Directive 2016/97/EU (Insurance Distribution Directive – IDD)

¹⁰ Commission implementing Regulation (EU) 2017/1469 of 11 August 2017 laying down a standardised presentation format for the insurance product information documents. Available at: https://eur-lex.europa.eu/eli/reg_impl/2017/1469/oj

- 3.11. In any case, insurance product manufacturers should consider that the burden of proof regarding the existence of the exclusion to the coverage, may often rest with the insurance undertaking, unless insurance contract law states otherwise.

The treatment of systemic exclusions in the POG process when new products are developed

- 3.12. Product development processes should ensure the target market's needs, objectives and characteristics are sufficiently taken into account and exclusions-related aspects should be properly dealt with from the product design phase onwards and not solely at the point of sale or claim stage.
- 3.13. When developing new products, insurance manufacturers are expected to comply with the POG requirements before bringing them to the market. In particular, they should:
- a) **Take exclusions into account in the identification and definition of the target market for the product, including negative target market (if relevant).** Exclusions in the product should be assessed against the target market characteristics and needs. The granularity of the target market should be proportional to the detail of the main exclusions. For example, if damages from flooding events are excluded for people living in lower floors the floor in which people live in should be considered an element of the target market.
 - b) **Test the exclusions vis-à-vis the target market's needs, objectives and characteristics.** They should assess whether in light of the exclusions the product remains aligned with the target market's needs, objectives and characteristics – i.e., it brings value to the target market.
 - c) **Test product disclosures to ensure that consumers make well-informed decisions in light of a clear understanding of the exclusions.** Manufacturers should ensure products are comprehensible allowing consumers to understand what they are covered for. Insights related to consumers' behaviour should be part of the product design process. Manufacturers are expected to test whether the presentation of exclusions in the consumer journey do not induce them to purchase the product without being aware of what it is not covered, in particular they should test whether the way in which exclusions are presented could lead to an expectation gap and if so review the product disclosures or the target market.
 - d) **Ensure that the selected distribution strategy takes into account any aspects emerging from the testing as to how products and information should be delivered to consumers to ensure they take exclusions into account.** When testing products, manufacturers should assess whether different distribution channels could lead to differences in the nature of consumers' engagement with and understanding of exclusions in the delivery phase (i.e. face-to-face sales, online distribution). This should be reflected in the distribution strategy.

Manufacturers are also expected to ensure that distributors are sufficiently able to deliver clear information to consumers on exclusions.

- e) **Implement monitoring activities to detect consumer detriment in relation to exclusions which may lead to ad hoc review.** This could include detriment emerging from product features, changes to the risk profile of the target market, communications to consumers or misalignments with the distribution strategy. Manufacturers are expected to monitor indicators which could support the detection of issues with exclusions such as claims ratios, claims rejection rates and reasons, consumers' questions or doubts at the pre-contractual and post-sale phase, consumers' complaints, etc. to identify possible detriment for consumers.
 - f) **Ensure that the intervals of review enable a timely identification of potential negative effects on consumers in the target market arising from exclusions.** The level of complexity and as a result of the granularity of exclusions and the type of events covered/excluded should be considered when determining the frequency of reviews.
- 3.14. **Treatment of exclusions applicable to systemic events in the POG process when terms and conditions need to be clarified and/or when a risk becomes uninsurable** Manufacturers may review exclusions due to lack of clarity in the contractual conditions or following the identification of risks that may become uninsurable due to systemic events.
- 3.15. When manufacturers are reviewing existing products that were manufactured and/or commercialised before the effective date of transposition measures of the IDD that is the 1 October 2018¹¹, they should assess whether the changes represent a significant adaptation.
- 3.16. In case of significant adaptation of the product, manufacturers are expected to follow the POG process and undertake an evaluation of:
- a) The degree of impact caused by the changes to exclusions in order to ensure a balance between the need to limit their losses and the need for the product to be aligned with the target market needs, objectives and characteristics regardless of whether the definition of the target market emerges from the significant adaptation or at a previous stage.
 - b) Whether the adaptation of the insurance product changes the suitability and comprehensibility of the product for the target market and whether the target market and communication to policyholders including the IPID needs to be reviewed as well.
 - c) Whether the distribution strategy is consistent with the changes to the insurance product.

¹¹ European Commission answer on a Q&A on significant adaptation of an existing product under (EU) No 2016/97 - Insurance Distribution Directive [2266](#) | [Eiopa \(europa.eu\)](#). European Commission answer on a Q&A on product testing and review for existing products under (EU) No 2016/97 - Insurance Distribution Directive [2267](#) | [Eiopa \(europa.eu\)](#)

- d) The impact that the changes to the product could have on the level of the distributor's knowledge of the product features and the appropriateness of the respective interaction with consumers. Manufacturers are expected to:
- Assess whether revised product disclosures and information provided to distributors are clear, complete, and up to date; and
 - Communicate the changes implemented to distributors in a timely and clear manner to ensure that distributors understands the changes made to the products.

In case manufacturers identify a substantial impact on distributors' understanding and knowledge of the product characteristics enhanced mechanism of communication is expected.

- 3.17. All expectations in the previous item are equally applicable to changes on exclusions relating to products manufactured and/or commercialised since 1 October 2018. The above elements should be taken into account in the product review process and where relevant manufacturers should put in place enhanced monitoring and review to ensure the early detection of consumer detriment emerging from changes to terms and conditions and the potential misalignment between the protection offered and the target market's needs and characteristics.

Supervision of POG process as regards to the treatment of systemic exclusions

- 3.18. NCAs should monitor their market from a risk-based perspective to ascertain that insurance product manufacturers comply with POG requirements. If issues pertaining to systemic events-related exclusions have been identified (i.e. increase of court cases on policy clauses for similar insurance products, uncertainty about the effective cover of unexpected events materialising for a high number of individuals and/or the level of cover of such event, etc.) NCAs should evaluate the impact and, where relevant, monitor whether insurance manufacturers have sufficiently assessed and tested their policy coverage limitations and exclusions against the target market characteristics and needs, and whether insurance manufacturers have the necessary processes in place to ensure that exclusions-related issues are identified timely.
- 3.19. In the event of suspicion of systemic events and considering the data available, supervisory authorities should carry out an enhanced monitoring of low claim acceptance rate if relevant from a risk-based perspective, to explore whether such systemic events are triggering the refusal of cover on the basis of exclusions.
- 3.20. As relevant and following the materialisation of systemic events, supervisory authorities should monitor, in a risk-based manner, low claims acceptance rates so as to engage with insurance product manufacturers and assess whether exclusions are driving such low ratios. If so, supervisory authorities should assess whether low claim acceptance rates result from either poor wording which may have led consumers to believe a risk was covered.

- 3.21. NCAs should evaluate, if relevant, how insurance manufacturers consider exclusions-related aspects in their distribution strategy and communication to intermediaries.
- 3.22. Where issues have been identified in relation to exclusions and / or lack of clarity in coverage, NCAs should take actions to address them, as relevant and appropriate considering their powers and legal tools as well as national insurance contract law.

Done at Frankfurt am Main, on DayMonthYear.

[signed]

For the Board of Supervisors

[name]

Chairperson

4. QUESTIONS TO STAKEHOLDERS

Q1: Stakeholders' views on the treatment of exclusions on risks relating to systemic events are sought. In particular, do stakeholders agree on the possible risks identified for consumers and insurance undertakings?

Q2: Stakeholders' views on the treatment of exclusions in the POG process are sought.

Q3: Stakeholders' views on how to ensure clarity on exclusions are sought. In particular, in relation to how to ensure a balance between providing an exhaustive list of exclusions versus making the terms and conditions overly complex.

Q4: Stakeholders views are also sought on how to ensure balanced approach that takes in consideration that providing all exclusions may not be possible whilst not mis-lead consumers to believe some risks are excluded (i.e., the ones mentioned in the example) and others are not (i.e., the one not mentioned).

Q5: Stakeholders view on how to ensure a balanced and consumer centric product review when a risk becomes uninsurable because of a systemic event are sought.

Q6: Do you agree with the proposed EIOPA approach to the assessment of the treatment of exclusions on systemic events in insurance contracts?

Q7: Do you agree with the policy option chosen by EIOPA (Annex I)?

Q8: Do you agree with the analysis of costs and benefits (Annex I)?

5. ANNEX I: IMPACT ASSESSMENT

5.1. PROCEDURE AND CONSULTATION OF STAKEHOLDERS

According to Article 29 of Regulation (EU) No 1094/2010, EIOPA should, where appropriate, analyse the potential costs and benefits in the process of issuing opinions or tools and instruments promoting supervisory convergence.

In the preparation of the Supervisory Statement on exclusions in insurance products related to risks arising from systemic events, EIOPA took into consideration the general objectives of the Directive (EU) 2016/9712 (IDD) and of Commission Delegated Regulation (EU) 2017/235813 (POG Delegated Regulation).

The draft Supervisory Statement and its Impact Assessment are envisaged to be subject to a public consultation. Stakeholders' responses to public consultation will serve as a valuable input in order to revise the policy proposals.

The analysis of costs and benefits is undertaken according to EIOPA's Impact Assessment methodology.

5.2. PROBLEM DEFINITION

Policy background

EIOPA's 2020 and 2021 Consumer Trends Reports highlighted the emergence of issues surfacing existing structural problems in the market relating to poor drafting of exclusions and protection gaps. In particular, the increase in systemic risks highlighted that issues relating to a lack of clarity in exclusions, limited consumer understanding of exclusions, and instances of unilateral changes to terms and conditions persist.

Ambiguous contractual terms and lack of clarity as to whether losses arising from such systemic events are covered can increase consumer detriment by leading to disputes between policyholders and insurance undertakings, reputational risks for the sector as well as significant losses for all parties involved. Ambiguous contractual terms, when these events materialise, may also lead insurers to review their terms and conditions in a way which may not fully take into account consumers' interests and needs, with the aim to limit disputes and to avoid losses.

During COVID-19, EIOPA and NCAs observed an increase in numbers of denied claims and number of complaints because of pandemic related exclusions. In addition, legal disputes between insurers and policyholders in several markets have been emerged due to lack of clarity in the terms and conditions and the coverage provided, leading insurance undertakings and consumers to spend money and resources in such disputes but also undermining the overall confidence in the sector. More generally

¹² Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19).

¹³ Commission Delegated Regulation (EU) 2017/2358 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors (OJ L 341, 20.12.2017, p. 1).

this could be indirectly detrimental to the sector at large in view of reputational impacts and political exposure.

5.3. OBJECTIVE PURSUED

The Supervisory Statement has the following objectives:

- ▶ Objective 1: to promote supervisory convergence in the approach by NCAs on the treatment of exclusions of risks arising from systemic events in the product oversight and governance (POG) process;
- ▶ Objective 2: to enhance consumer transparency and promote contract simplicity to ensure consumers can better understand exclusions;
- ▶ Objective 3: to ensure that when products and terms and conditions are reviewed because some risks may have become excluded because of systemic events, there is a balancing between profitability and other business needs and consumers' interests;
- ▶ Objective 4: to establish good supervisory practices in relation to the treatment of exclusions in the POG process and in relation to contract transparency; and
- ▶ Objective 5: enhancing customer protection and limit the further expanding of protection gaps by leading to review of terms and conditions which do not take into account consumers' interests.

5.4. POLICY OPTIONS

EIOPA has identified as policy issue the diverging approaches taken by NCAs in addressing potential issues with treatment of exclusions arising from systemic events in insurance contracts.

With regards to the objectives set out in the previous section, EIOPA has analysed different policy options throughout the policy development process, with the preferred option marked in bold:

1. No action (maintain status quo)
2. Issuing a Supervisory Statement on exclusions in insurance products related to risks arising from systemic events;
3. Issuing a Warning on exclusions in insurance products related to risks arising from systemic events.

POLICY OPTION 1: NO ACTION

The first policy option consists of maintaining the status quo and not issuing any guidance to NCAs on a common approach to assessing potential risks and issues with exclusions for systemic events

Policy option 1: No action (maintain status quo)		
Stakeholder groups	Benefits	Costs
Consumers	No impact.	Costs related to denied claims due to lack of clarity in coverage provided by the insurance policy. Sunk costs for the insurance premium paid for an insurance policy that did not provide the expected coverage for systemic events.
Industry	No impact.	Costs related to future legal disputes with policyholders. As systemic events are more likely to occur, undertakings are likely to incur unexpected losses from unintended exposure to systemic risks due to lack of clarity in insurance contracts. Further costs related to reputational damage may arise.
Supervisors	No impact.	Costs related to supervisory interventions when systemic events occur.
Other	No impact.	Societal exposure to losses as a result of protection gaps cause by inexplicit lack of coverage for systemic risks.

POLICY OPTION 2: SUPERVISORY STATEMENT ON EXCLUSIONS IN INSURANCE PRODUCTS RELATED TO RISKS ARISING FROM SYSTEMIC EVENTS

Policy option 2: Issuing a Supervisory Statement on exclusions in insurance products related to risks arising from systemic events		
Stakeholder groups	Benefits	Costs
Consumers	<p>Improved understanding of the level of protection purchased and clarity in insurance contracts.</p> <p>Improved communication and transparency on exclusions and coverage limitations.</p> <p>Increased trust and confidence in the insurance sector.</p>	No costs are expected.

Industry	Ongoing application of the supervisory expectations set out by the Supervisory Statement is likely limit unexpected costs/losses caused by unintended exposure to systemic events. If contract drafting is improved the industry could also benefit from increased confidence in the sector.	Some minor additional costs are expected considering insurance manufacturers are expected to when necessary to review their products and determine which have been impacted as well as to review the terms and conditions. However, costs are expected to be minimal, given all insurance manufacturers and insurance distributors are expected to fully comply with the Directive (EU) 2016/97 (IDD) and Commission Delegated Regulation (EU) 2017/2358 (POG Delegated Regulation).
Supervisors	Enhanced and proactive risk-based supervision. Proposed approach would facilitate conducting comparative assessments on treatment of systemic exclusions in insurance contracts and would ensure a higher quality of the supervision.	As part of the Union wide strategic supervisory priorities (USSPs) NCAs are expected add to their annual work programmes relevant supervisory work in relation to exclusions if issues in their market have been identified. Given the Supervisory Statement covers NCAs' ongoing market monitoring activities, no additional supervisory efforts and resources are expected to be needed.
Other	Contribution to maintaining the financial stability of the sector by limiting unintended exposure to systemic events avoid potential reputational damage.	N/A

POLICY OPTION 3: WARNING ON EXCLUSIONS IN INSURANCE PRODUCTS RELATED TO RISKS ARISING FROM SYSTEMIC EVENTS

Policy option 3: Issuing a Warning on exclusions in insurance products related to risks arising from systemic events.		
Stakeholder groups	Benefits	Costs
Consumers	<p>Improved terms and conditions, in particular in relation to exclusions for systemic events.</p> <p>Limiting protection gaps as customer interests would be taken into account when reviewing terms and conditions.</p>	<p>Increased lack of trust in the sector given the nature of warnings which may alarm consumers and lead to cancel their policy or surrender it.</p>
Industry	<p>Ongoing application of the warning is likely to limit unexpected costs/losses caused by unintended exposure to systemic events. If contract drafting is improved the industry could also benefit from increased confidence in the sector.</p>	<p>Some minor additional costs are expected considering insurance manufacturers are expected, when necessary to review their products and assess if they have been impacted as well as to review the terms and conditions.</p> <p>However, costs are expected to be minimal, given all insurance manufacturers and insurance distributors are expected to fully comply with the Directive (EU) 2016/97 (IDD) and Commission Delegated Regulation (EU) 2017/2358 (POG Delegated Regulation).</p> <p>Some increased costs for the industry can result from the fact that consumers may be warned about issues relating to terms and conditions.</p>
Supervisors	<p>Enhanced and proactive risk-based supervision. Proposed approach would facilitate conducting comparative assessments on treatment of systemic exclusions in insurance contracts and would ensure a higher quality of the supervision.</p>	<p>As part of the Union wide strategic supervisory priorities (USSPs) NCAs are expected add to their annual work programmes relevant supervisory work in relation to exclusions if issues in their market have been identified.</p> <p>While given Supervisory Statement covers NCAs’ ongoing market monitoring activities, NCAs are expected to already work on this, a warning may require more immediate</p>

		and urgent actions, leading to costs for NCAs.
Other	Contribution to maintaining the financial stability of the sector by limiting unintended exposure to systemic events avoid potential reputational damage.	N/A

5.5. COMPARISON OF OPTIONS AND CONCLUSION

EIOPA has considered two policy options to address the policy issue of this Supervisory Statement. **The Policy option 1, taking no action (maintaining the status quo)** has been discarded given the cost outweigh the benefits for all stakeholders (consumers, industry, NCAs, etc.). Maintaining the status quo may have limited or no impact in the short run however in the medium to long term it may further increase the risk of unintended exposure of the sector to systemic risks, deepen the protection gap and result into legal disputes with policyholders. Given the scale and magnitude of systemic events, lack of clarity in insurance contracts may in the future be resolved with supervisory actions from national authorities and political pressure which can substantially expose the sector to unforeseen losses. There are also risks for consumer protection, as mis-match between policyholders’ expectations and actual coverage provided by the insurance contract can lead to increased number of complaints and denied claims that may result in supervisory intervention and actions for collective redress.

While Policy Option 2 and 3 would lead to similar results. The most advantageous in terms of costs and benefits is Policy Option 2, issuing a Supervisory Statement to promote convergence in the approach to assessing the treatment of exclusions in relation to systemic events in insurance contracts and as part of the POG process. The proportionate and risk-based approach envisaged by the Supervisory Statement will contribute to ensuring that the benefits surpass the costs for all stakeholders, whilst ensuring that the approach is balanced to the risks identified and allows NCAs to act as needed.

NCAs will have the flexibility to adjust their supervisory efforts based on the risks and issues identified in their market as part of their ongoing monitoring activities. Setting out expectations for manufacturers and insurance intermediaries will provide more clarity on the application of IDD and POG requirements as well as ensure consistency in outcomes across markets.

This policy option is expected to ensure comparability and comprehensiveness of application of IDD and POG rules by market players and allow NCAs to promote consistent outcomes for consumers in their markets.

The benefits of proactive assessment of the treatment of exclusions on systemic events will limit the costs for all stakeholders stemming from uncertainty in coverage and avoiding similar issues that emerged during COVID-19.

Privacy statement related to Public (online) Consultations

Introduction

1. EIOPA, as a European Authority, is committed to protect individuals with regard to the processing of their personal data in accordance with Regulation (EU) No 2018/1725 (further referred as the Regulation).¹⁴

Controller of the data processing

2. The controller responsible for processing your data is EIOPA's Executive Director.
Address and email address of the controller:
3. Westhafenplatz 1, 60327 Frankfurt am Main, Germany
fausto.parente@eiopa.europa.eu

Contact details of EIOPA's Data Protection Officer

4. Westhafenplatz 1, 60327 Frankfurt am Main, Germany
dpo@eiopa.europa.eu

Purpose of processing your personal data

5. The purpose of processing personal data is to manage public consultations EIOPA launches and facilitate further communication with participating stakeholders (in particular when clarifications are needed on the information supplied).
6. Your data will not be used for any purposes other than the performance of the activities specified above. Otherwise you will be informed accordingly.

Legal basis of the processing and/or contractual or other obligation imposing it

7. EIOPA Regulation, and more precisely Article 10, 15 and 16 thereof.
8. EIOPA's Public Statement on Public Consultations.

Personal data collected

9. The personal data processed might include:
 - Personal details (e.g. name, email address, phone number);
 - Employment details.

Recipients of your personal data

10. The personal data collected are disclosed to designated EIOPA staff members.

¹⁴ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC

Transfer of personal data to a third country or international organisation

11. No personal data will be transferred to a third country or international organization.

Retention period

12. Personal data collected are kept until the finalisation of the project the public consultation relates to.

Profiling

13. No decision is taken in the context of this processing operation solely on the basis of automated means.

Your rights

14. You have the right to access your personal data, receive a copy of them in a structured and machine-readable format or have them directly transmitted to another controller, as well as request their rectification or update in case they are not accurate.
15. You have the right to request the erasure of your personal data, as well as object to or obtain the restriction of their processing.
16. For the protection of your privacy and security, every reasonable step shall be taken to ensure that your identity is verified before granting access, or rectification, or deletion.
17. Should you wish to access/rectify/delete your personal data, or receive a copy of them/have it transmitted to another controller, or object to/restrict their processing, please contact [legal@eiopa.europa.eu]
18. Any complaint concerning the processing of your personal data can be addressed to EIOPA's Data Protection Officer (DPO@eiopa.europa.eu). Alternatively you can also have at any time recourse to the **European Data Protection Supervisor** (www.edps.europa.eu).