



Solvency II after the 2020 Review: what is new?

Prof. Em. Karel Van Hulle
KU Leuven and Goethe University Frankfurt

Georgian International Insurance Conference 2025
Batumi, Georgia, 12 June 2025

Agenda

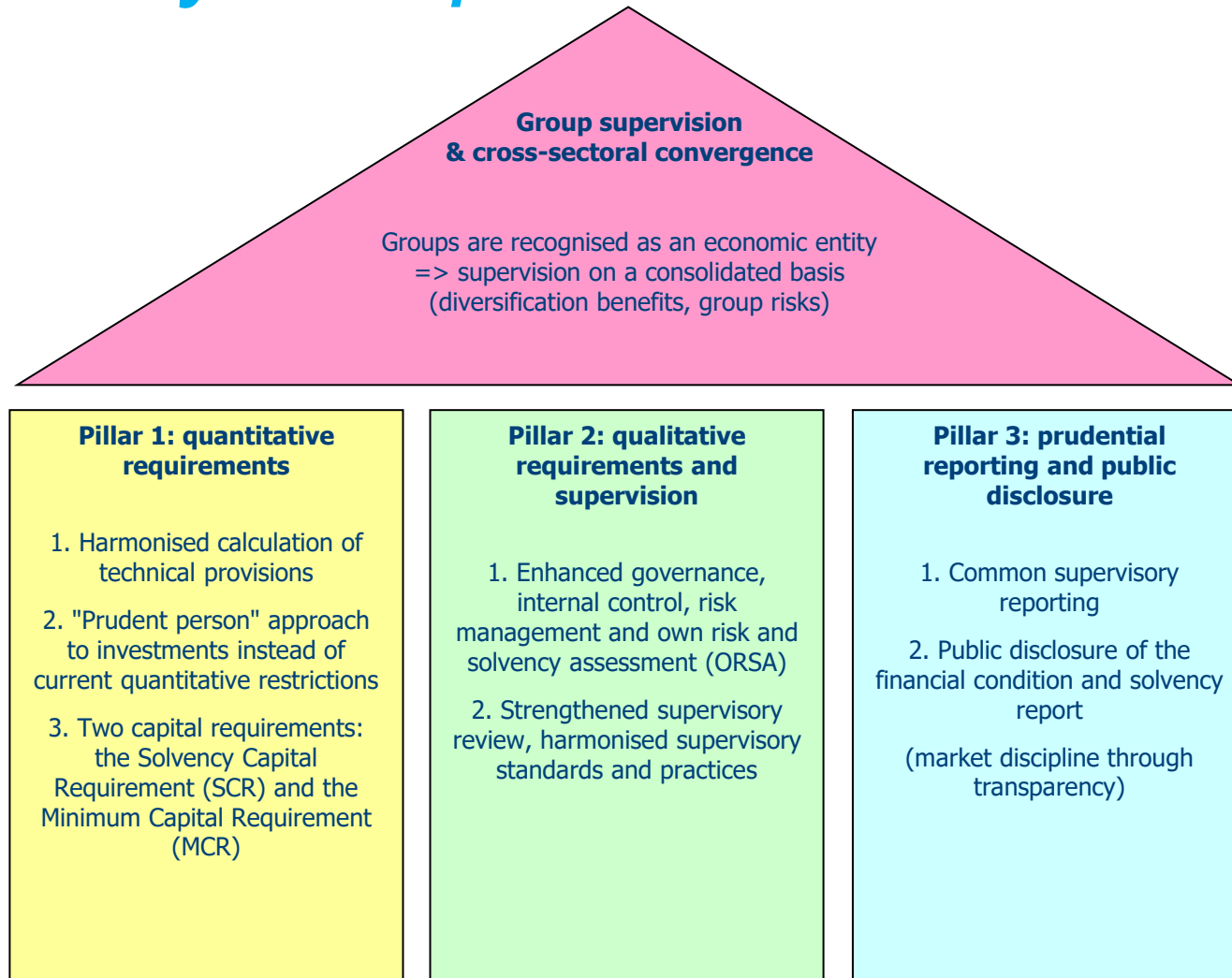
1. No Solvency III
2. Context and Process of the Solvency II Review
3. Main changes in the Solvency II Directive
 1. Proportionality
 2. Sustainability
 3. Other changes in the Solvency II Directive
4. Insurance Recovery and Resolution Directive (IRRDR)
5. Amendments of other Directives
6. Outlook

1. No Solvency III

Why no Solvency III?

- Although the Solvency II 2020 Review brings many changes in the Solvency II Framework Directive, the basic principles of Solvency II remain unchanged
- It is generally agreed that Solvency II works well and that there is no need to rethink the risk-based capital regime that became applicable in 2016
- EIOPA in its Opinion on the Solvency II 2020 Review indicated clearly that it wanted **evolution** and **no revolution**
- The EC and all stakeholders expressed the view that Solvency II has worked well and that there was no need for an overhaul
- The need to stick a risk-based approach was shared by most parties during the negotiations

Solvency II: 3 pillars and a roof



2. Context and Process of the Solvency II Review

Why a Solvency II Review?

- Solvency II was conceived as a flexible regime to be regularly updated in order to keep the regime fit for purpose
- The 2020 Review was specifically foreseen in the Solvency II Directive after its amendment in 2014 by Omnibus II
- The 2020 Review was postponed as a result of Covid-19
- The EC did not look at this review as a mere technocratic exercise:
 - The review should serve broader political objectives, in line with the Capital Markets Union Action Plan, the European Green Deal and the Sustainable Finance Strategy (see Commission Communication)
 - The review should upgrade the present micro-prudential framework with a macro-prudential part, including new powers for supervisory authorities in order to deal with systemic risk and a new regime for recovery and resolution and for insurance guarantee schemes

Process

- The review started with a call for advice from the EC to EIOPA on 11 February 2019 comprising 19 points
- EIOPA launched three consultations in 2019 (supervisory reporting and public disclosure, IGS, other issues)
- EIOPA presented its final advice to the EC on 17 December 2020, accompanied by two holistic impact assessments with reference dates end of 2019 and mid-2020
- The EC presented its proposals on 22 September 2021 (with IA)
- The Council agreed its position in June 2022 and the EP in June 2023
- The amending Directive was approved on 27 November 2024, entered into force on 7 January 2025 and must be implemented by MS by 29 January 2027 in order **to become applicable on 30 January 2027**
- EIOPA has launched a number of consultations which will lead to amendments of the Delegated Regulation and of the EIOPA Guidelines

3. Main Changes in the Solvency II Directive

3.1. Proportionality

Exemption from the scope

- Strictly speaking this is not an application of proportionality
- Both EIOPA and the EC were in agreement that more insurance undertakings should be exempted from the scope of application of Solvency II
- The proposal to double the size criteria was approved
- The main size criteria for the exemption are now:
 - Annual gross written premium not exceeding 15 MIO EUR (instead of 5 MIO EUR)
 - Total of technical provisions, gross of the amounts recoverable from reinsurance contracts and special purpose vehicles not exceeding 50 MIO EUR (instead of 25 MIO EUR)
 - Where the undertaking belongs to a group, the total of the technical provisions of the group defined as gross of the amounts recoverable from reinsurance contracts and special purpose vehicles does not exceed 50 MIO EUR (instead of 25 MIO EUR)

New category of SNCUs and SNCGs

- Proportionality has not worked well because it requires the cooperation of supervisory authorities
- The 2020 Solvency II Review creates a new category of undertakings and groups that would automatically benefit from a number of proportionality measures
- This category was initially referred to as “low-risk profile undertakings and groups” but the name was changed into “small and non-complex undertakings and groups”
- The definitions (included in Article 29a for SNCUs and in Article 213a for SNCGs) are complex and distinguish between undertakings or groups pursuing mainly life business or non-life business and undertakings pursuing both life and non-life business
- Captives are automatically classified as SNCUs if the insured persons and beneficiaries are legal entities of the group of which the captive is part

Specificities for SNCGs

- Certain groups can never be classified as SNCGs:
 - Groups which are financial conglomerates
 - Groups where at least one subsidiary is a regulated entity (such as a bank or an IORP)
 - Groups that use an approved partial or full internal model to calculate the group SCR
- Notification of compliance with the criteria for the classification as a SNCG must be made with the group supervisor
- Insurance undertakings within a group could meet the criteria for SNUC on a standalone basis but the group may not meet the criteria for SNCG on a consolidated basis
- Challenges may arise for SNUCs that are required to comply with group reporting requirements, notwithstanding any proportionality measures applied at entity level

Classification process

- Once an undertaking meets the criteria and complies with its SCR, it can notify the supervisory authority of its wish to be classified as a SNCU by providing:
 - Evidence of the compliance with the SNCU criteria for the last two consecutive financial years
 - A declaration that the undertaking does not plan any strategic change that would lead to non-compliance with any of the criteria within the next three years
 - An identification of the proportionality measures the undertaking expects to implement
- The supervisory authority may oppose the classification only under the conditions foreseen in Article 29b (3)
- Provided no objection is raised by the supervisory authority within two months of receipt of a complete notification, the undertaking will automatically be deemed a SNCU and can avail itself of the related proportionality measures

Proportionality measures

- The following proportionality measures are foreseen in Article 13, point 43:
 - Right to submit the RSR once every three or five years;
 - Possibility to combine certain key governance functions and to review the policies on governance once every 5 years;
 - Exemption from the requirement to provide a macroeconomic and financial market's development analysis in the ORSA;
 - Possibility to carry out an ORSA every two years instead of annually;
 - Possibility not to specify climate change scenarios or assess their impact on the business of the undertaking in the ORSA;
 - Possibility to disclose only quantitative data in the SFCR and exemption from the audit requirement of the solvency balance sheet;
 - Possibility to use a prudent deterministic valuation of the best estimate for life obligations with options and guarantees;
 - Exemption from the requirement to draw up a liquidity management plan;
 - Any proportionality measure provided for in the Delegated Regulation.

Use of proportionality measures by undertakings not classified as SNCUs or SNCGs

- Non-SNCUs or non-SNCGs may use one or more proportionality measures subject to prior supervisory approval
- In order to obtain the approval, the undertaking must file a request in writing including:
 - A list of the proportionality measures intended to be used and the reasons why their use is justified in relation to the nature, the scale and the complexity of the risks inherent in the business of the undertaking or group
 - Any material information regarding the risk profile of the undertaking or group
 - A declaration that the undertaking or group does not plan any strategic change that would have an impact on the risk profile of the undertaking or group within the next three years
- Within two months of the receipt of the request, the supervisory authority must inform the undertaking or group of its approval or rejection, as well as of the proportionality measures the undertaking or group may use

Comments on proportionality (1)

- After the 2020 Solvency Review, there will be **three proportionality regimes applicable to insurance undertakings and groups**:
 - A **first and new regime** applicable to insurance undertakings and groups classified as SNCUs and SNCGs which may use all proportionality measures defined in Article 13, point 43 SII Directive after notification of their supervisory authority
 - A **second and also new regime** applicable to insurance undertakings and groups not classified as SNCUs and SNCGs which may be authorised by their supervisory authority to apply all or some of the proportionality measures defined in Article 13, point 43 SII Directive after prior supervisory approval
 - A **third regime** applicable to all insurance undertakings and groups which takes account of the nature, scale and complexity of the risks inherent in their business (for instance the organisation of the system of governance)

Comments on proportionality (2)

- The discussions on proportionality showed that there is still great reluctance by MS and supervisors to grant a proportionality treatment to SNCUs and SNCGs
- The process leading to the conclusion that an undertaking or group is small and non complex is complex, although the proportionality measures can hardly be considered to be far-reaching
- Supervisory authorities still have the possibility to object against a SNCU or a SNCG using a proportionality measure, where they have serious concerns in relation to the risk profile of the undertaking or group
- EIOPA has issued (complex) advice on the methodology to be followed by supervisory authorities for assessing whether an undertaking that is not small and complex can make use of the proportionality measures. See, EIOPA, *Advice of 30 January 2025 on the implementation of the new proportionality framework under Solvency II which specifies the methodology for classifying undertakings and groups as small and non-complex and details the conditions for granting or withdrawing supervisory approval for proportionality measures for undertakings and groups not classified as small and non-complex*

3.2. Sustainability

EU Sustainability agenda

- EU Green Deal: package of policy initiatives which aims to set the EU on a path to a green transition, with the ultimate goal of reaching climate neutrality by 2050
- Sustainable Finance Action Plan
 - Corporate Sustainability Reporting Directive
 - European Sustainability Reporting Standards
 - Corporate Sustainability Due Diligence Directive
 - EU taxonomy for sustainable activities
- Commission Delegated Regulation (2021) on the integration of sustainability factors, risks and preferences into the product oversight and governance requirements for insurance undertakings and insurance distributors
- Commission Delegated Regulation (2021) on the integration of sustainability risks in the governance of insurance and reinsurance undertakings

Sustainability: definition and transition

- Sustainability risk is now defined in Article 13 (43) as *an ESG event or condition that, if it occurs, could cause an actual or potential negative impact on the value of an investment or on the value of a liability*
- Insurers must take into account the short, medium and long term horizon when assessing sustainability risks and have strategies, policies, processes and systems for the identification, measurement, management and monitoring of sustainability risks over the short, medium and long term
- As part of their risk management, insurers must **develop and monitor the implementation of specific plans**, quantifiable targets and processes to monitor and address the financial risks arising in the short, medium, and long term from sustainability factors, including those arising from the process of adjustment and transition trends towards the relevant MS and Union regulatory objectives and legal acts in relation to sustainability (**transition plans**)

Sustainability: transition plan

- The transition plans must consider the latest reports and measures prescribed by the European Scientific Advisory Board on Climate Change and must include actions with regard to the business model and strategy of the undertaking that are consistent with these plans
- The targets, processes and actions to address the sustainability risks included in the plans must be proportionate to the nature, scale and complexity of the sustainability risks of the business model
- EIOPA must develop technical standards to specify the minimum standards and reference methodologies for the identification, measurement, management and monitoring of sustainability risks, the elements to be covered in the plans, including the relevant quantifiable targets, and the supervisory approaches in relation to these plans
- Insurers must disclose on an annual basis the quantifiable targets

Sustainability (ORSA and investments)

- With the exception of SNCUs and SNCGs, insurers must assess in their ORSA whether they have a material exposure to climate change risk, specifying at least two LT climate change scenarios (one scenario where the global temperature increase remains below two degrees Celsius and one scenario where the global increase is significantly higher than two degrees Celsius)
- Insurers must include climate change among the macroeconomic and financial markets developments that are analysed in the ORSA
- Insurers must assess in their ORSA their material exposure to biodiversity related risks
- Insurers must take into account in their investment strategy the impact of sustainability risks on their investments and the potential LT impact of their investment decisions on sustainability factors
- See, EIOPA, Consultation Paper on the proposal for RTS on management of sustainability risks including sustainability risk plans, 4 December 2024

Sustainability: SFCR

- Insurers must disclose in the part of the SFCR addressed to policyholders a brief description of their exposure to sustainability risks and whether they disclose transition plans on the basis of the CSRD (*plans, including implementing actions and related financial and investment plans, to ensure that the business model and strategy are compatible with the transition to a sustainable economy*)
- Insurers must disclose in the part of the SFCR addressed to market professionals
 - an indication whether the undertaking has any material exposure to climate change risks following the ORSA assessment and, where relevant, whether it has put in place any actions
 - a statement of whether the undertaking discloses transition plans on the basis of the CSRD

Sustainability: tasks for EIOPA

- EIOPA must assess whether a dedicated prudential treatment of exposures related to asset or activities associated substantially with environmental and social objectives is justified and the effects of such a dedicated prudential treatment on the protection of policyholders and financial stability, including fossil fuel related assets
- EIOPA must consider a possible risk-based prudential treatment of the relevant exposures
- See, EIOPA, Prudential Treatment of Sustainability Risks, 7 November 2024
- EIOPA must review at least every five years the scope and calibration of the standard parameters of the non-life catastrophe sub-module
- See, EIOPA Opinion on the 2023/2024 (re)assessment of the nat cat standard formula, 30 January 2025

Sustainability (tasks for EIOPA)

- EIOPA must evaluate whether and to what extent insurers assess their material exposure to risk related to biodiversity loss as part of the ORSA
- See, EIOPA, Consultation Paper on a report on biodiversity risk management by insurers, 4 December 2024
- EIOPA must assess subsequently which actions should be taken to ensure that insurers duly consider these risks and submit a report to the EC by 30 June 2025
- EIOPA must, together with EBA and ESMA, develop guidelines to ensure that consistency, long-term considerations and common standards for assessment methodologies are integrated into the stress testing of ESG risks
- The three ESA's must explore how social and governance-related risks can be integrated into stress testing

3.2. Other changes in the Solvency II Directive

LT investments, risk sensitivity, volatility

- **Long-term equity investments**
 - Definition and capital charge 22% now in the SII Directive (basically a level 2 issue: Delegated Regulation)
- **Long-term guarantee measures**
 - Improvement to the application of the Volatility Adjustment with more technical details in the SII Directive and in the Delegated Regulation)
 - Limitations on the use of the transitional measures
- **Risk sensitivity** (low interest rate environment!)
 - New extrapolation method (with phasing-in)
 - New calibration of interest rate risk (with phasing-in)
 - Reduction of the risk margin (CoC reduced from 6% to 4,75%)
 - Internal model users must also report SCR calculated on the basis of the standard formula (makes little sense)

Reporting

- **Public disclosure: SFCR**

- SFCR divided in two parts: policyholders and market professionals
- Possibility for MS to require the audit of the solvency balance sheet and of other information
- Derogations for captives and for reinsurers (only info for market professionals)

- **Supervisory Reporting**

- Regular Supervisory Report only every 3 years
- Prolongation of disclosure deadlines
- Limited supervisory reporting for captives
- Requirement for EIOPA to report by 29 January 2027 on possible reduction of reporting requirements and compliance costs

Quality and consistency of supervision

- The following measures should improve supervision particularly in the case of insurers working cross-border:
 - Stronger cooperation and more information exchange between home and host in the case of significant cross-border activities
 - Binding mediation of EIOPA in the context of cooperation platforms
 - Power for EIOPA to launch joint on-site inspections
 - Exchange of basic solvency data between home and host
 - Database of withdrawals or refusals of applications for authorisation
 - Possibility for a joint assessment of applications for authorisation where an insurer plans operations primarily in a host member state
 - Power for supervisor to remove a member of the AMSB or a key function holder

Macroprudential tools

- Following the discussions in the IAIS and pressured by the ESRB and EIOPA a new chapter is introduced in the SII Directive on macroprudential tools in order to monitor the development of systemic risk:
 - Strengthening of liquidity management and planning (liquidity management plans)
 - Possibility for supervisory authorities to suspend or restrict dividend payments in order to preserve the financial position of insurers during exceptional market-wide shocks
 - Alignment of the risk calibration of mortgage loans with the banking sector
 - Consideration of macro-prudential developments in the ORSA
 - Integration of macro-prudential developments and systemic risk analysis in investment decisions (prudent person principle)
- See, EIOPA, Consultation Paper on the proposal for RTS on applicability criteria for macroprudential analysis in the ORSA and the prudent person principle, 17 October 2024 and Consultation Paper on the proposal for RTS on liquidity risk management, 1 October 2024

Group supervision

- Improvement of group supervision
 - Clarification of the scope of group supervision and stronger requirements for the supervision of mixed-activity financial holding companies
 - Power to require restructuring in exceptional circumstances where group supervision is obstructed
 - Limitation of the possibility to waive group supervision
 - Clarification of powers and prerogatives in relation to third country groups
 - Clarification of governance requirements at group level
 - Clarification of the calculation of the group SCR
 - Clarification of the treatment of specific group entities that belong to other financial sectors, such as credit institutions, IORPs, investment firms, etc.
 - Increase of the powers of EIOPA with regard to the approval of group internal models

Comments

- The large number of amendments made the negotiation of the proposal difficult
- Both the Council and the EP added unnecessary complexity to the Directive (see, the regime for SNCU and the audit of the SFCR)
- For the first time, EIOPA was actively lobbying for its position (for instance, risk margin and Long-term equity investments)
- The insurance industry wanted more technical details in the Solvency II Directive because there was distrust about the L2 intentions of the EC and EIOPA (see, formula in FD for calculation of the volatility adjustment!)
- The need for the inclusion of macroprudential considerations in the ORSA and for the introduction of liquidity management plans is questionable
- It is unlikely that the reporting burden of insurers will diminish, although EIOPA is working at it
- Positive are the exemptions for captives and reinsurers

4. Insurance Recovery and Resolution Directive (IRRDR)

Why a proposal on recovery and resolution?

- A regulatory regime for recovery and resolution was advocated by the FSB for large banks as part of the “too large to fail” program
- In the EU this led to the introduction of a BRRD after the financial crisis for investment firms and banks (broader scope)
- The IAIS also requires the development of a recovery and resolution regime for large insurers
- In the EU, the ESRB and EIOPA requested the EC to introduce a harmonised regime for R&R as in the banking sector, in order to ensure the existence of a crisis management regime in all MS
- MS developments: 3 MS (France, the Netherlands and Romania) have introduced a comprehensive framework for recovery and resolution
- There existed fear that the absence of an EU action in this area would stimulate MS to develop their own framework, responding to their own needs, thereby possibly increasing the fragmentation of the Single Market

Summary of the new regime

- Inspired by the recovery and resolution regime for credit institutions
- Intro of adequate protection & efficient toolkit for severe financial distress
- Reinforcement of policyholder protection as well as protection of taxpayers, the real economy and financial stability, should (re)insurers fail
- Continuity of insurance coverage is a key element in order to ensure the best possible outcome for policyholders, beneficiaries and injured parties
- Requirement for insurers to prepare a pre-emptive recovery plan
- Requirement for MS to set up one or more resolution authorities
- An insurer will be placed in resolution when it is failing or likely to fail and there is no prospect for private sector alternatives or supervisory measures
- Extensive powers are given to resolution authorities
- Colleges under the leadership of the group resolution authority
- Cooperation agreements with third countries

Comments

- The IRRD was adopted on 27 November 2024 and must be implemented by MS by 29 January 2027 in order to **become applicable on 30 January 2027**
- EIOPA has already issued some consultation papers which will help for the drafting of the Delegated Regulation and of EIOPA Guidelines
- The implementation of the IRRD by MS will be a huge challenge as it needs to be integrated with existing insolvency and bankruptcy laws
- Although the IRRD pretends to be minimum harmonisation, it is a technically difficult legal document that will lead to many new rules at national level
- A large part of the IRRD deals with cross-border issues but it is questionable whether this will work in practice as experience with the BRRD shows that in crisis situations a *sui generis* solution is adopted with disregard to the requirements of the BRRD
- It might have been better to limit the R&R regime to large and significant insurance undertakings

5. Amendments of other Directives

Amendment of the Accounting Directive

- SNCUs, as well as captive (re)insurance undertakings may limit their SFRD sustainability reporting to:
 - A brief description of the undertaking's business model and strategy
 - A description of the undertaking's policies in relation to sustainability matters
 - The principal actual or potential adverse impacts of the undertaking on sustainability matters, and any actions taken to identify, monitor, prevent, mitigate or remediate such actual or potential adverse impacts
 - The principal risks to the undertaking related to sustainability matters and how the undertaking manages those risks
 - Key indicators necessary for these disclosures
- SNCUs, as well as captive (re)insurance undertakings which make use of this derogation, must report in accordance with the sustainability reporting standards (ESRS) for SMEs

Financial conglomerates

- By 31 December 2027, the EC must assess the functioning of the FICOD on a number of points, in particular taking into account the prudential treatment of cross-sectoral participation ownerships under sectoral rules, in terms of a level playing field
- A review of the FICOD has been on the agenda for a number of years and preliminary work has started on this issue in the EC
- An important question is whether the present rules governing capital requirements lead to a comparable outcome irrespective of whether the main financial sector of the financial conglomerate is the banking sector, the insurance sector or the investment services sector
- Another question is whether the absence of identification of an undertaking that is ultimately responsible for complying with the requirements in the FICOD poses issues with regard to ensuring a level playing field

6. Outlook

Concluding remarks

- The sustainability and climate change related proposals are challenging for all parties concerned (undertakings as well as EIOPA)
- There is a need to coordinate the requirements on transition plans in SII with those required by the Corporate Sustainability Reporting Directive (CSRD) and the Corporate Sustainability Due Diligence Directive (CSDDD)
- The EC has proposed a number of simplifications on sustainability reporting but much remains to be decided
- Non-respect of the quantifiable targets in the transition plans can be sanctioned by supervisory authorities
- The amended Directive further enhances the powers of EIOPA but fails to make EIOPA a supervisory authority in its own right
- The implementation of the 2020 Review Directive will be challenging for all MS because of the large number of amendments
- If I had a dream.....

Solvency II

Karel Van Hulle

Solvency Requirements
for EU Insurers

Solvency II is good for you

Prof. Karel
and Goeth



intersentia



KU LEUVEN