

BIPAR Update

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European Federation of Insurance Intermediaries

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1. EIOPA first pilot dashboard on the natural catastrophe protection gap

On 4 December, the European Insurance and Occupational Pensions Authority (EIOPA) launched its [first pilot dashboard](#), which depicts the insurance protection gap for natural catastrophes. The aim is to represent the drivers of a climate-related insurance protection gap in order to identify measures that will help in decreasing society's losses in the event of natural catastrophes.

EIOPA explained that in the past, only 35% of the total losses caused by extreme weather and climate-related events across Europe were insured. Losses to properties and businesses are expected to grow due to climate change. In response to increasing climate-related risk, the price of insurance will also increase. Over the medium-to-long term, this can lead to insurance being unavailable or unaffordable for citizens and businesses, leading to a further widening of the insurance protection gap.

EIOPA dashboard brings together data on economic and insured losses, vulnerabilities and exposure as well as insurance coverage across the European Union Member States. The aim is to allow for evidence-based decision-making on measures to improve society's resilience against natural catastrophes. At the same time, the pilot dashboard aims to help increasing the awareness of the protection gap, promote science-based approach to protection gap management and decision-making. This approach will help in identifying risky regions at risk, protection gap risk drivers as well as defining proactive prevention measures.

EIOPA is inviting stakeholders to provide views on the methodology, data used in the dashboard by 31 March 2021 by filling in the survey: [EUSurvey - Survey \(europa.eu\)](#)
BIPAR does not intend to respond to this survey. However, should you wish us to react to this survey please let us know.

The pilot dashboard is part of EIOPA's broader sustainability agenda to integrate environmental, social and governance (ESG) risk assessment in the regulatory and supervisory framework. EIOPA is committed to supporting the European insurance and occupational pension sectors in their transition to climate neutrality and to deliver on the 'Green Deal' initiated by the European Commission.

EIOPA's work on sustainable finance is driven by three objectives: (i) insurers should manage and mitigate ESG risks, (ii) insurers and pension funds should reflect policyholders and pension scheme members' preferences for sustainable investments and (iii) insurers and pension funds should adopt a sustainable approach to their investments based on principles of stewardship.

BIPAR will participate in EIOPA Sustainable Finance Roundtable on 16 December 2020 and will be part of discussion about EIOPA's ongoing consultation on the scenario analysis in ORSA, activities on disclosure and non-financial reporting, impact underwriting, protection gap for natural catastrophes and sensitivity analysis for transition risk.

2. Review of Directive on Administrative Cooperation in the field of taxation (DAC)

The European Commission has published an [Inception Impact Assessment](#) on the future revision of the **Directive on Administrative Cooperation in the field of taxation in relation to reportable cross-border arrangements (DAC8)**.

The Directive on administrative cooperation in the field of taxation -DAC6- entered into force on 25 June 2018 and introduces an obligation on qualifying broadly as "intermediaries¹", including potentially insurance and financial intermediaries, and relevant taxpayers to disclose to national tax authorities certain cross-border tax arrangements perceived as potentially aggressive. The revision of the Directive aims to improve cooperation between national tax authorities, particularly in emerging areas such as crypto-assets and e-money. This initiative should provide tax administrations with information to identify taxpayers who are actively using these new means of exchange in order to curb tax fraud and evasion. Furthermore, the initiative aims to address some inefficiencies of the existing Directive and differences between Member States with regard to the sanctions.

According to the Commission inception impact assessment, the lack of centralized control for crypto assets, its pseudo-anonymity, valuation difficulties, hybrid characteristics and the rapid evolution of the underlying technology as well as their form are challenging in regard to tax obligations. Similar to "traditional" financial instruments, income derived from crypto-assets could be subject to taxation. However, proper enforcement of tax obligation relies on a proper reporting and the ability of tax administrations to have access to the information.

The initiative will need to define crypto-assets in order to determine the material scope of the Directive as well as to identify the relevant intermediaries for tax, common reporting and due diligence purposes. An impact assessment is being prepared to support the preparation of this initiative and to inform the Commission's decision. The Impact Assessment will consider which assets should be included, for instance, whether so-called stablecoins and e-money need to be covered by the scope.

The Commission will consider whether guidelines (soft-law) addressed to Member States tax administrations and crypto-assets and e-money operators may eventually achieve the objectives. Otherwise, it will be considered whether an amendment of Council Directive 2011/16 could be necessary in order to:

- Include relevant data from crypto-assets and e-money under the provisions for mandatory automatic exchange of information between Member States.
- Strengthen provisions for administrative cooperation.

Stakeholders are invited to provide input by the 21 December deadline.

BIPAR does not intend to respond to this consultation. However, should you wish us to react to this survey please let us know.



Background

This initiative comes in the context of other relevant actions, such as the [Digital Finance Strategy](#) adopted on 24 September 2020 and the proposal for a [Regulation on Markets in Crypto-assets](#). This revision is part of the [Action Plan for Fair and Simple Taxation Supporting the Recovery](#) that the Commission presented in July this year. Since its adoption the original Directive on Administrative cooperation in the field of taxation (DAC, Directive 2011/16/EU) has been amended seven times, to include information on financial accounts, on tax rulings and advance pricing agreements, on country by country reports, on beneficial ownership, on reportable cross border arrangements, on income earned through digital platforms (under examination by EU regulators) and on crypto-assets and e-money being the last one.

The DAC6 shall have started to apply on 1 July 2020. Reportable cross-border arrangements the first step of which is implemented between the date of entry into force -25 June 2018- and the date of application of the Directive -1 July 2020- must have also been reported.

However, in response to the difficulties that businesses and EU Member States are facing due to the coronavirus (COVID-19) pandemic, the Council adopted an amendment to DAC6 allowing Member States an option to defer the reporting dates as follows:

- *Postpone to 1 January 2021 the date for the beginning of the 30-day period for reporting cross-border arrangements.*
- *Postpone to 28 February 2021 the date for the reporting of the cross-border arrangements that became reportable between 25 June 2018 and 1 July 2020.*
- *Change the date for the first exchange of information on reportable cross-border arrangements from 31 October 2020 to 30 April 2021.*

Depending on the evolution of the pandemic, the amended directive also provides the possibility, under strict conditions, for the Council to extend the deferral period once, for a maximum of three further months.

Germany, Austria and Finland decided not to make use of the option to defer the reporting dates.

3. EIOPA Consultation on Draft Advice to European Commission for reporting on taxonomy-aligned activities

EIOPA, the European Insurance and Occupational Pensions Authority, has published a [consultation on its Advice to the European Commission](#) specifying what information should be presented and how by (re)insurers subject to the Non-Financial Reporting Directive (NFRD), as stipulated in the Taxonomy Regulation (Article 8).

It should be reminded at this point that the Taxonomy Regulation was published in the Official Journal of the EU on 22 June 2020 and entered into force 20 days later. It will start to apply gradually from January 2022 for the first two environmental objectives. Also, the NFRD covers within its scope large public-interest companies (large-listed issuers, large banks, large insurers) with more than 500 employees and requires them to include a non-financial statement as part of their annual public reporting obligations.

The mandate for the ESMA Advice

More precisely, Article 8 of the Taxonomy Regulation **requires undertakings covered by the NFRD to publish information on how and to what extent their activities are associated with economic activities that qualify as environmentally sustainable under the Taxonomy Regulation**. For this purpose, Article 8(2) of the Taxonomy Regulation requires non-financial undertakings to use three key performance indicators (KPIs), namely the proportion of their turnover, their capital expenditure (CapEx) and their operating expenditure (OpEx) related to environmentally sustainable activities. Article 8 does not specify any KPIs to be used by financial undertakings.

Article 8(4) of the Taxonomy Regulation requires the Commission to adopt a delegated act to supplement the above obligations by **specifying the content, presentation and methodology of the information to be disclosed** by both financial and non-financial undertakings subject to the NFRD. The Commission has to adopt the delegated act by 1 June 2021.

EIOPA shall consider whether the mandatory ratios (KPIs) of non-financial undertakings, as set out by Art. 8 of the Taxonomy Regulation, are relevant and appropriate to depict (re)insurance activities or whether they need to be 'translated' to the most appropriate and comparable KPIs for (re)insurance businesses. For that, the consultation paper further specifies three insurance-specific ratios as a possible starting point:

- Proportion of total assets invested in taxonomy-compliant economic activities.
- Proportion of total non-life insurance underwriting exposure associated with taxonomy activities.
- Proportion of total reinsurance underwriting exposure associated with taxonomy activities.

The EIOPA consultation paper mentions that services offered by insurers that are not directly insurance activities, yet may enable taxonomy-relevant activities, such as consultancy services, may be separately charged and not be counted in the turnover/gross premiums written. Depending on the significance of such services, and where they are not accounted for in the non-life insurance underwriting results, they may be added as revenue from ancillary or enabling services.

The Commission mandate requires EIOPA to also consider whether:

- there should be a difference between the disclosures of insurers and reinsurers and between insurance and reinsurance activities;
- all existing activities should be covered retroactively or only those relevant to the time period as of the when the disclosure rules start to apply¹; and
- the recommendations can be justified based on their potential impact regarding the need for information which is disclosed to be accurate, useful, usable, and cost-efficient.



Background

The Commission's Guidelines on non-financial reporting: Supplement on reporting climate-related information of June 2019 establish the recommendation that certain large companies, including insurance undertakings, report on certain climate-related key performance indicators (KPIs).

ESMA and EBA were also invited by the Commission to provide similar advice on the delegated act to be adopted within their respective remits. **ESMA was asked to provide advice on KPIs for asset managers subject to the NFRD. EBA was asked to provide advice on KPIs for banks and investment firms subject to the NFRD.**

The deadline for providing comments to the EIOPA consultation is 12 January 2020. BIPAR does not intend to respond to this survey. However, should you wish us to react to this survey please let us know.

4. Collective redress – Publication of the Directive in the EU Official Journal

On 4 December 2020, the **Directive on “on representative actions for the protection of the collective interests of consumers” (Collective Redress Directive)** was published in the Official Journal of the EU (Directive 2020/1828). *All language versions of this Regulation can be found [here](#).*

The Directive covers infringements of **financial and insurance services legislation, including the IDD (Articles 17-24 and 28-30), MiFID II (Articles 24-29), PRIIPs, Solvency II, and GDPR** (listed in Annex I of the proposed Directive).

For more information, please see our previous update sent on 27 November and our mail on the issue sent on 17 November.

Member States shall adopt and publish by 25 December 2022, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall apply those measures from 25 June 2023.