

Comments Template on CP8 -Draft proposal for Guidelines on ORSA		Deadline 20 January 2012 12:00 CET
Name of Company:	CRO Forum	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to cp008@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the paragraphs refers to Consultation Paper 008.</p>		
Reference	Comment	
General Comment	<ol style="list-style-type: none"> 1. The CRO Forum would like to thank EIOPA for the opportunity to comment on the draft Proposal for Guidelines on ORSA. The ORSA in its definition given in the Solvency II directive reflects one company's own risk management processes. Accordingly it is essential for the guideline to carefully articulate provisions that allow supervised undertakings to understand the supervisors' expectations, and refrain from setting requirements that could turn the ORSA into a supervisory compliance exercise. With due consideration to the nature, scale and complexity of the risks inherent to an undertaking, we also believe that the guideline should focus on what is to be achieved by the ORSA rather than on how it is to be performed. 2. As ORSA is commonly used as an umbrella concept for e.g. a set of processes, a report, a policy or 	

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	<p>capital assessment, it is important that the term of ORSA used within the level 3 guidance correlates to the EIOPA definition (dated 27 May 2008). Else it will be difficult for the supervised undertakings to interpret the guideline and assess their compliance. The guideline therefore needs to clearly reference the ORSA definition to provide context for these concepts, thus helping to understand the scope of the term and its interaction with phrases used in the guidance such as 'each ORSA process', and 'record of each ORSA process'.</p> <p>3. Related to item 2, the ORSA as an umbrella process would typically include a number of internal processes such as risk limit monitoring or capital allocation which are potentially documented separately and communicated to different bodies. The ORSA requirements should appropriately take account of these internal processes to avoid duplication of e.g. documentation and communication.</p> <p>4. We welcome the allowance for a differentiation between the internal ORSA report and the ORSA report to supervisors enabling the undertakings to adapt their internal ORSA report fully to established management needs and standards (in terms format, scope, communication channel etc).</p> <p>5. We agree that the ORSA process and capital assessment should also include a forward looking assessment taking into account medium term risks and events that could materialize, which shall be reported in the ORSA report to supervisors. We welcome EIOPA's consistent view that such forward looking assessment remain excluded from public disclosure: this would indeed create compliance issues with existing reporting requirements like IFRS.</p>	
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3.7.		
3.8.	Any limitations of the internal model shall be documented as part of the internal model documentation and not to be duplicated in the context of the ORSA.	
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3.12.	We would like clarity as to what the 1 st and 2 nd case are referring.	
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3.15.	Our interpretation of the text is that the objective aims at ensuring that undertakings address proportionality and sufficiently document the rationale for the use of the proportionality principles within the ORSA processes.	
3.16.		
3.17.	<p>Undertakings may use 'policy' in a very specific context, and therefore, should be allowed discretion on the format and naming convention for the (set of) document(s) that allow them to define and operate their ORSA process, as long as it is fit for purposes. We recommend accordingly to explicitly broaden the reference to the requirement to have an ORSA policy as per Guideline 4.</p> <p>The concept of own assessment in the ORSA needs to be recognised in these guidelines to help with good implementation: the ORSA documentation and reporting need ultimately to reflect companies' "Own" risk and solvency assessment. We therefore also expect the ORSA regulatory report to be an undertaking "own" report rather than a document which structure would be standardised by the regulator. As long as not definitive and conclusive, clarifications in the form of examples about the supervisors' expectations in terms of the content of the ORSA supervisory report contents would be useful.</p>	
3.18.	"ORSA Policy should contain information on....Data Quality requirements" – data quality is satisfactorily and explicitly covered elsewhere in the Solvency II framework (Level 2 Implementing measures) and is here duplicative. We recommended that this requirement is removed. It can be	

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	<p>noted that disclosure practice (ORSA report and/or RSR) will include statement on the data quality used for the solvency assessment.</p> <p>We reiterate our view that flexibility shall be granted to undertakings to adopt the most appropriate format to define and document their ORSA, other than as part of the risk management policy. Also the listed items that the 'policy' is to cover is too prescriptive to respect the diversity and specificities of each undertaking's organisation and approach.</p> <p>As undertakings assess risk profile (in lieu of tolerance and limits) against the overall solvency needs, we suggest to remove the reference to tolerance in this sentence.</p>	
3.19.		
3.20.	The ORSA includes information from other reports produced as part of the ORSA processes, therefore, there may be duplication in cascading the ORSA report. Many of the actions included would have been communicated already.	
3.21.	<p>We appreciate that some elements of the own assessment may differ from the Pillar 1 requirements (including basis for valuation from internal models or processes/methodologies that may be used to better reflect the nature, scale, and complexity of the business).</p> <p>However, the explanations required in Guideline 7 are too onerous. It would be more appropriate for companies to explain the differences in approaches taken in the ORSA assessment and the Solvency II Pillar I assessment. Companies with an approved internal model have explained most of these aspects in the context of the internal model approval and model change process including the demonstration of the use test. Our understanding is that these processes can be used as part of the ORSA and do not need to be duplicated.</p>	
3.22.	<p>It should especially be noted that not all risks included in the "overall solvency needs" need be quantified. Risks can also be assessed and managed on different terms than with capital assessment.</p> <p>We require clarification on how this paragraph applies to companies with an approved internal model. A continuous parallel calculation of the standard formula is burdensome and meaningless.</p>	

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3.23.		
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3.25.	<p>.Forward looking information will need to be considered by the regulator in context and should not be used as a measure for compliance of an undertaking and is used as an internal measure only.</p> <p>We do not understand the second part of the sentence, in particular its objective: 'forward looking and <u>at least cover separately each year of the business planning period</u>'. Suggested rephrasing by simplifying to: '...forward looking'.</p>	
3.26.	We would welcome that more clarity is provided under a) particularly with regards to the expectations implied by the language "taking into account potential future changes in the risk profile and considering stressed situations" when monitoring compliance on a continuous basis. The current wording will lead to a variety of interpretations across the industry and regulators. We would recommend that this requirement is specifically related to the assessment of the projected business plan.	
3.27.	We believe that this disposition is duplicative and should not be requirement under ORSA - this is dealt with under the Level 1 text and Level 2 on actuarial function and report of the actuarial function.	
3.28.	We would prefer to change the language to "assess the significance of the deviation", as this would leave more flexibility to the undertaking to apply an approach suitable to its needs and fit for purpose. Our interpretation is that this requirement is covered by the process for internal model approval and the model change process for companies with an approved internal model.	
3.29.	<p>It would be useful to have more clarification on what ORSA refers to in this provision (i.e. ORSA process, ORSA report).</p> <p>These requirements are more prescriptive and thus more onerous than the requirements of the use test for internal model users. We ask for clarification on the relation between Article 120 and guideline 3.29.</p>	

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3.30.		
3.31.	<p>We propose the following drafting changes:</p> <p>The group should design the group ORSA to reflect the nature of the group structure and its risk profile. All of the material entities that fall within the scope of the group supervision should be included within the scope of the group ORSA. This includes both (re)insurance and non-(re)insurance undertakings, both regulated and non-regulated (unregulated) entities, situated in the EEA and outside the EEA.</p>	
3.32.	<p>The 1st paragraph sets out the Group ORSA should be in the same language as the Group RSR. The 2nd paragraph, however, states that other supervisory authorities may require the undertaking to include a translation of the part of the concerning ORSA information.</p> <p>We feel the 2nd paragraph does not support the intention of the 1st paragraph, it is not practical and would only add to compliance expense. We therefore propose that only the first sentence is included in the guideline.</p>	
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3.35.	This guideline could be merged with guideline 18.	
3.36.	No guideline is necessary to define what planning horizon is adequate for the group. It may be assumed that groups have a well defined planning horizon which should be referred to. --> guideline 20 may be deleted.	
3.37.	It should be clarified that a reason for not using the internal group model shall only be required for regulated entities.	
3.38.	We would like to have clarity on the process and the criteria for approval of a group wide ORSA beyond compliance with Article 45 and Article 246(4).	

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3.39.		
3.40.	<p>The treatment of third countries is welcome (we would welcome confirmation that the third country definition is the same as in the context of equivalence discussions).</p> <p>If the third country regime is considered to be equivalent there should be no need to state the consequences of applying local capital requirements and technical provisions calculations. Doing this would defeat some of the purpose and objective of the equivalence assessment and recognition. Therefore we would add at the end of the Paragraph: "this requirement does not apply to companies whose third country supervisory regime is considered to be equivalent".</p>	
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4.7.	<p>We recommend deleting the reference to the frequency of the ORSA in relation to the application of the principle of proportionality as it is confusing. As a process, ORSA will likely spread over the entire year for many undertaking and an annual report to the supervisors on the overall results, as per the provisions in the draft Level 2 texts, should be sufficient.</p>	
4.8.	<p>In line with comments related to paragraph 3.18, we would avoid specific reference to the word 'policy', and therefore we suggest the following redrafting:</p>	

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	The AMSB approves the ORSA policy and ensures that the ORSA process is appropriately designed and implemented - with the central role Risk Management.	
4.9.		
4.10.	One of the roles of the AMSB should be to 'challenge' the results of the ORSA as it is described and consequently we would recommend amending the text to "It also challenges the management on actions to be taken if certain risks were to materialise". We ask for clarification of the relation between guideline 2 and Article 120 of the directive for companies using an internal model.	
4.11.		
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4.13.	We reiterate previous comments as we do not concur with the conclusion that there needs to be a separate ORSA policy. The consequence from L1 is that ORSA needs to be appropriately reflected in the Risk Management policy but no specific ORSA policy is required. See also 3.18.	
4.14.	4.14 g) what is considered as a "significant deviation" in the context of the difference established from the comparison of the undertaking's risk profile with the assumptions underlying the calculation of the SCR? 4.14(c) this provision is duplicated in 4.27 of the explanatory text and could be removed.	
4.15.		
4.16.	It is in the spirit of the ORSA to have consistency between the ORSA report to the AMSB and the report to the supervisor. Supervisors should expect that the report to the AMSB will determine the format and the scope of the supervisory report. Accordingly, the ORSA process and report should not be driven by the regulatory constraints.	
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4.27.	This is a duplication of 4.14 and the provision can be removed.	
4.28.	The first sentence reads "...all risks, including <i>non-quantifiable</i> risks like reputational risk or strategic risks.", while the next states that "It could be 'pure' quantification". This seems to be a contradiction. It should read as follows: "...all risks, including those, which are not covered by the internal or standard model like..."	
4.29.	Comment on group risk: We wish to reiterate that reputational and contagion risk are not stand-alone risks but consequences or manifestation stemming from other risks. Requiring a capital assessment for these cannot be an alternative to managing their consequences. As noted in the Solvency II directive "the ORSA shall not serve to calculate a capital requirement" article 45 (7).	
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4.35.	This should be clarified so as not to imply that with every update of the business plan i.e. change in forecast a new ORSA capital assessment has to be performed.	
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4.41.	Stress and scenario appears unnecessarily duplicated in a number of areas of the text. In our view, this is sufficiently addressed in guideline 9.	
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4.59.	We welcome this statement.	
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4.61.	e) the impact of minor changes to the model is captured and reported to management and supervisory authorities through the model changes reporting as required and we do not see the benefit of systematically replicating this in ORSA.	
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4.63.	This requirement is already captured through 4.57 and on-going compliance with internal model tests and standards. Articles 4.64 to 4.68 are somewhat contradictory with 4.58 and 4.59 especially 4.65. We do not see the benefit of detailing this here.	
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4.76.	The guideline details the example that a start up of a new line of business will trigger an out of cycle ORSA report. However, we feel that this is too vague as some new lines of business will not have a significant impact on the risks/ capital requirements of the solo undertaking and/or group. Therefore we recommend the wording to change to 'start up of new line of business that potentially has a significant impact on the ORSA capital assessment'.	
4.77.		
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4.79.	It should be understood that information on a third country undertaking on solo level shall not be a direct section of the group reporting and disclosure obligations in the EU.	
4.80.	Clarity should be provided on this point i.e. clarifying the intention of "take account of any restrictions	

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	or challenges to the assessment at group level that may arise from third country undertakings".	
4.81.	These assessments are reported in the ICAAP document.	
4.82.	It seems very complex to include banking business within ORSA framework. We should be able to make reference to sectorial regulation. See previous 4.81	
4.83.		
4.84.		
4.85.	<p>Guideline 17 (p.30) For group-wide ORSA "Single ORSA supervisory report submitted to all supervisors concerned" – It is recommended that the wording is amended to reflect the recommendation that where a group-wide ORSA is prepared, supervisors receive the group ORSA and any subsidiary information which relates to entities over which they regulate. The current wording may be implemented in a way which would dilute the incentives in terms of synergy and efficiency for large organisations to prepare group-wide ORSA reports. In addition, it may cause local legislative issues where a regulator receives information over entities where it has no supervisory powers.</p> <p>We would like clarification regarding the alternative options for submitting an ORSA regulatory report for a group with a parent undertaking outside the EEA, with solo undertakings within the EEA. Additionally, we would like to understand how this would differ in the case where the group is based in a jurisdiction with a framework recognized as equivalent to Solvency II.</p>	
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4.89.	<p>We do not agree that currency risk is a group specific risk. Currency risk is the same on legal entity and group level and there is no difference in the assessment of currency risk between the two levels. Whilst contagion risk (spill-over effect of risks that have manifested in other parts of the group) is a group specific risk and is assessed in the Group ORSA, it is not a standalone risk. Rather, it is a consequence or a manifestation of standalone risks; there should be no requirement for a capital assesment on contagion risk.</p> <p>(e) It would be useful to provide examples of risks arising in the 'complexity of group structure' to</p>	

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	ensure that undertakings are in line with these guidelines.	
4.90.	The comparison of the sum of the solo SCRs and the Group SCR does not necessarily give proper indication about the diversification effects. This comparison does not tell you the validity of the correlations and assumptions used by the undertaking it only provide a quantification of the difference. Therefore , it is not necessarily useful for management or supervisors. Therefore we propose a deletion of point b).	
4.91.	If this is a requirement for the Group supervisory report, it should be clearly stated. This information may not be appropriate (too detailed) for the ORSA internal report and then should be left to the undertaking's management decision as to whether or not to include it.	
4.92.	If this is a requirement for the Group supervisory report, it should be clearly stated. This information may not be appropriate (too detailed) for the ORSA internal report and then should be left to the undertaking's management decision as to whether or not to include it. (c) The sensitivity analysis on diversification benefits at the group level is overly prescriptive. Similar purpose can be achieved for example by the calculation of different stress and scenario analysis or through the model validation process.	
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4.97.	4.97 a) Our interpretation is that the ability for a group to use a single ORSA document is permitted whether internal model or standard formula is used by solo undertakings.	
4.98.	Should this point be referring to a group-wide ORSA submission or a group ORSA submission? If the wording is correct i.e. group ORSA, it is recommended that the wording is amended to allow reporting reflecting the management structure and reporting lines of the organisation within the group portion of a group-wide ORSA yet still require adequate and clearly identifiable documentation for each solo undertaking as per Guideline 23.	

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4.99.	See comment on paragraph 3.40 Propose to delete 4.99 C.	
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5.11.	Stating the 'proportionality principle should be reflected in the process' is a bit unclear. It would be helpful to specify the areas proportionality needs to be addressed (e.g. methodology, entities defined material, ORSA reporting, entity level etc)	
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5.26.	What is the result of the EIOPA discussion?	
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5.39.	We confirm our preference for Option 3 adopted by EIOPA not to provide detailed guidance and standards of the ORSA supervisory report, as the ORSA report should reflect the nature, scale, risk and complexity of the undertaking.	
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Q1.	The guidelines provide a framework for people to make a valid assessment on whether they are compliant with the purpose and principles of ORSA. However issues regarding definitions will continue to cause confusion/ debate amongst the industry stakeholders.	
Q2.	See comment above	
Q3.	At present no other areas in scope of Article 45 or 246 of the directive require additional guidance.	
Q4.	ORSA is an umbrella concept that covers a number of risk, capital and solvency processes therefore there are operational issues in ensuring that the content of the ORSA report is kept precise and relevant to the AMSB.	
Q5.	Benefits of the guideline include clarification of documentation requirements, governance process and the recognition of a difference between regulatory capital and Pillar II capital.	
Q6.	In this analysis costs are only identified at a high level for SMEs. we have no comments to provide.	
Q7.	We agree with the conclusions EIOPA have drawn in respect of the policy options. We would like to reaffirm our agreement with option 3. It should be the responsibility of individual undertakings and their AMSB to derive the exact structure and content of the supervisory report.	
Q8.	To the extent that the guidelines represent a framework for best practise they should encourage improved risk management processes.	
Q9.	The risk management framework will be subject to independent review in accordance with level 1 text.	