

**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

Name of Company:	CRO Forum and CFO 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"> <li>⇒ Do <b>not</b> <u>change the numbering</u> in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool</li> <li>⇒ Leave the last column <u>empty</u>.</li> <li>⇒ 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>.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below.</li> </ul> <p><b>Please send the completed template, in Word Format, to <a href="mailto:CP-13-009@eiopa.europa.eu">CP-13-009@eiopa.europa.eu</a>. Our IT tool does not allow processing of any other formats.</b></p> <p>The numbering of the paragraphs refers to this Consultation Paper, the numbering of cells refers to the Technical Annexes II and III.</p>		
<b>Reference</b>	<b>Comment</b>	<b>Resolution</b>
<b>General Comment</b>	<p><b>Joint CFO Forum and CRO Forum feedback on Interim measures</b></p> <p>We reiterate our support for the efforts made by EIOPA in seeking to achieve harmonised progress towards the implementation of Solvency 2 in the European Union and welcome the opportunity to comment on these consultations.</p>	

**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

We look forward to engaging with you and your team constructively as EIOPA finalises the guidelines for the interim period.

We have some specific concerns in respect of Forward Looking assessment of the undertaking's own risks (based on the ORSA principles) as set out below.

1. **The forward looking assessment should reflect strategic management processes.** It will only be appropriate to link with the strategy, business and capital management process where an internally defined economic capital projection and/or existing regulatory regime may be used instead of the requirement to project on a Solvency 2 regulatory basis. This is because the internal economic capital basis and/or the existing regulatory regime is being used to run the business whereas the Solvency 2 basis is not fully defined and not a current regulatory requirement (nor expected to be a regulatory requirement until 1/1/2016).

If the guidelines are introduced as drafted, the forward looking assessment (on ORSA principles) will become less useful as a management tool and more of a compliance exercise.

2. **Companies should have the option to use their internally defined Economic Capital basis and / or existing regulatory regime, during the interim period.** The guidelines require firms to project on a Solvency 2 basis and assess the quality (including composition) and quantity of own funds over the projection period. It would be more appropriate during the interim period for firms to provide this projection on an internally defined Economic Capital basis, which will be used when making decisions on the future capital management or business plans.
3. **It would not be appropriate for firms in the pre-application process for an internal model to also project the business plan on a Solvency 2 Standard Formula basis.** We therefore have concerns around EIOPA's proposal that companies in the Internal Model pre-application process should prepare for the eventuality that the application to use the internal model is rejected.

**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

	<p>The guidelines should be clarified to require a qualitative assessment only of the likely future impact on risk and solvency needs of using the Solvency 2 Standard Formula basis.</p> <p>4. <b>The review clause foreseen by EIOPA should apply to all aspects of Interim Measures, not only reporting.</b> For example, if the Technical Provision rules (i.e. Level 2 Implementing Measures) are not finalised when these guidelines implement, it is not clear how firms could assess their future continuous compliance with the requirements regarding Technical provisions. In any case, there is no value in this exercise (for firms or the NCA) until the regulations are 'live'.</p>	
<b>Introduction General Comment</b>		
1.1		
1.2	EIOPA states that the Guidelines "are based on" Article 41, 45 and Article 246 of Solvency 2. We feel the Guidelines should seek to achieve the intended outcome of Article 41, 45 and Article 246 of Solvency 2 within the current regime rather than be based on them. We would therefore suggest to change the wording to "These Guidelines refer to..."	
1.3		
1.4	We agree with the statement that the Guidelines should be viewed as preparatory work for Solvency II with regard to proper management of undertakings. We would urge EIOPA to consider the impact, in all aspects of these CPs, of any requirement to calculate regulatory basis data in the absence of clarity around the final definition of valuation rules and would like to further emphasize, as previously noted in our Cover Note, that we do not support enforcement of Solvency II Pillar I calculations at this stage.	
1.5		
1.6	We are very supportive of a phased approach to introducing these requirements and encourage regulators to employ flexibility in applying these Guidelines.	
1.7		

<b>Comments Template on Consultation Paper on the            Proposal for Guidelines on            Forward Looking assessment of the undertaking's own risks            (based on the ORSA principles)</b>		<b>Deadline            19 June 2013            12:00 CET</b>
1.8	<p>As noted in our Cover Note, the expectation should be on NCAs to take steps to require that undertakings take a forward looking view. We would suggest that the sentence read “In the preparatory phase national competent authorities are expected to ensure that insurance and reinsurance undertakings <b>take steps towards performing</b> a forward looking view on the risks to which they are exposed...”</p>	
1.9	<p>The current wording of this paragraph implies that the entirety of all assessments required by Article 45 can be undertaken irrespective of the applicable regulatory quantitative requirements. This is not the case, since Article 45(1)(b) and Article 45(1)(c) make specific reference to Solvency II Pillar 1 requirements. The wording of this paragraph should be tightened to:  <b>“Since [the assessment of overall solvency needs required by Article 45(1)(a)] can be undertaken irrespective of what regulatory quantitative requirements are applicable, national competent authorities are expected to ensure that undertakings take steps towards performing [this] assessment of their overall solvency needs as of 2014.” [EIOPA-CP-13-009 (paragraph 1.9)]</b></p> <p>Where an undertaking would have fully implemented its internal forward looking assessment in 2014, we understand this guideline to require the eventual submission of a report no earlier than in Q1 2015 based on year-end 2014 and prospective data. We would be strongly opposed to any interpretation of this rule that requires undertakings to submit in 2014 forward looking assessments based on 2013 actual and prospective data as we feel this would be far too premature.</p>	
1.10	<p>Given the current Solvency II hiatus, we see little benefit, in having to comply with the requirements set out in this paragraph. We feel it should not be required at this stage to demonstrate that business decisions are even partly based on internal models if they have not been approved, rather it should be demonstrated that the current process for setting risk appetite and risk tolerance limits is in place and is robust, regardless of the metrics used, and that plans to phase in Solvency II measures in this process have been defined. We therefore would strongly support deferral of these requirements</p> <p>Without prejudice to our previous statement, where this paragraph would be maintained, it should at minimum be suspended until the regulatory quantitative requirements have been fully agreed</p>	

**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

	<p>upon, Further clarification as to what would be intended by “continuous” when referring to “continuous compliance with regulatory capital requirements” given Solvency II is not in force would be required. Finally, we would suggest that the final sentence should read that <b>‘these assessments should only be performed to the extent that they can help inform preparation by the undertaking.’</b></p>	
1.11		
1.12		
1.13	<p>We do not support that supervisors should require a guideline for reporting on the forward-looking assessment. This statement seems contradictory with the “own” dimension of the ORSA. Necessary information should be disclosed as part of the supervisory reporting whilst the content of the ORSA reporting to supervisors should remain the responsibility of undertakings.</p>	
1.14		
1.15		
1.16		
1.17	<p>By making the Guidelines necessarily applicable to both the Group and individual levels, EIOPA is effectively forcing undertakings to implement at a quicker pace than initially required the forward looking assessments at all levels.</p> <p>We believe it should be up to the parent undertaking to:</p> <ul style="list-style-type: none"> <li>a) choose the appropriate level at which its forward looking assessment is considered appropriate by covering at least all material risks and significant single entities.</li> <li>b) demonstrate why the current level at which its forward looking assessment is conducted is appropriate.</li> </ul>	

**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

	With the goal of “phasing-in” Solvency II requirements, we would encourage that the NCAs not be required to enforce applicability of the Guidelines at both levels but rather it could be suggested that part of their assessment be dedicated to how and with what timeline the undertaking will deploy forward looking assessments at those levels that are not yet part of the framework.	
1.18		
1.19	The undertaking suggests changing “are expected” to “should be allowed”, in line with § 1.28, so as to allow flexibility for those undertakings which do not wish to fully base their assessment process on internal models until approved.	
1.20	We understand the “group single forward looking assessment of the undertaking's own risks“ as flexibility given to the undertakings to simplify their assessment and documentation processes where the same methodologies and models are applicable to the group calculations and to its subsidiaries. Additional clarification would be required if this is not the case.	
1.21		
<b>Section I. General Comments</b>	<p>As discussed in our Cover Note, we would need further clarification as to the final purpose of these guidelines and would request the recognition in the guidelines themselves of this period as a preparatory phase. This would affect the calendar to be compliant.</p> <p>As discussed in 1.9 it is assumed that the first overall (forward looking) assessment of solvency needs performed in 2014 would be expected to be reported on in early 2015. It should be possible to use the current regulatory basis (Solvency I) in this interim period.</p> <p>Furthermore and as mentioned in our Cover Note, we support that submission of quantitative information should not be subjected to control or sanction from the NCA in this pre-implementation phase.</p>	
1.22	See general comments Section I	
1.23	This guidelines should be deleted as it duplicates the intended outcome of the framework being established by the remaining guidelines. It does not add to these guidelines and does not reflect the requirement of Article 45 which is focused on building a forward looking assessment process rather than building qualitative information.	

**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

1.24		
1.25	<p>It is not clear what this paragraph adds to guideline 3 or to existing requirements of regimes currently in force. We suggest that this paragraph be deleted.</p> <p>Furthermore, it is assumed that the first overall (forward looking) assessment of solvency needs performed in 2014 would be expected to be reported on in early 2015. It should be possible to use the current regulatory basis (Solvency I) in this interim period.</p>	
1.26	<p>We would like confirmation on the purpose of Guideline 3 which would appear to be that there should be requirements for undertakings above a certain threshold to carry out a forward looking assessment. Paragraph 1.26 should make this clearer. In addition, we strongly feel that references to Solvency II – which is not yet in force – at this stage should be <b>changed</b> to allow undertakings to perform projections according to current regimes or economic capital used by firms. Any reference to calculations related to the possible final Solvency II regime should make it clear that these are preparatory.</p> <p>Therefore we propose the following wording '.... Take steps to be able to perform an assessment if the undertaking is implementing forward looking assessment requirements in the interim period. Such assessment should contain an indication on whether the undertaking would be in a condition to comply with expected ORSA requirements when Solvency II comes into force.'</p> <p>We would also recommend that NCAs be requested to communicate early 2014 which undertakings exactly would fall under the rules set in 1.26 and 1.27.</p>	
1.27	<p>We see no benefit in performing an assessment of compliance with Solvency II regulatory requirements and technical provisions whilst the rules defining these calculations are yet to be finalised, see also comment on paragraph 1.26</p>	
1.28	<p>This is very onerous. It requires companies in the pre-application process to project under S2 rules, which are not finalised, using both their Internal Model and also on a Standard Formula basis. This would be alongside planning projections on the current regulatory basis to meet current regulations.</p> <p>The guideline should <b>at most</b> require a <b>qualitative</b> assessment of how a projection on a S2 Standard Formula basis might compare with their projections of their current Economic Capital assessment.</p>	

**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

	<p>This would then provide useful information for the undertaking in the current regulatory environment (prior to S2 'go live'),</p> <p>This would also be consistent with section 2.79, which indicates a less onerous requirement ' to explain the effect if it turns out the undertaking has to use the standard formula as approval for the model is refused. '</p>	
1.29	We do not support having to perform Solvency II calculations at this stage and would require this paragraph to be deleted.	
<b>Section II. General Comments</b>		
1.30	See general remarks.	
1.31	<p>AMSB is given an operational role in these texts. In certain countries such as in France, the AMSB is understood as being strategic level supervisory committees (e.g. the "conseil d'administration") which do not have such an almost day to day role in the firms. We suggest that it be made possible to establish a clear delegation from the AMSB to more operational committees (e.g. Company Executive Committee ).</p> <p>Furthermore, the reference to Solvency II should be removed and the statement 'should ensure' should be replaced with 'should require that preparation is made for' (see also general remarks)</p>	
1.32	<p>The reference to Solvency II should be removed and the statement 'should ensure' should be replaced with 'should require the undertaking to make preparations for the following documentation....'</p> <p>We believe the requirements for documentation outlined in the Guideline extend beyond what could reasonably be expected from undertakings at this stage of the implementation process. We also recommend that it be made possible to provide versions in progress under the proportionality principle and general « phasing in » approach.</p>	
1.33	See our general remarks: the reference to Solvency II should be removed and the statement 'should ensure that' should be replaced with 'should require that preparatory steps are taken for the	



**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

	<p>AMSB of the undertaking to approve the documentation setting out the principles, procedures and controls for the forward looking assessment.... These documents should include at least...'</p> <p>In addition, we would make the following observations:</p> <ul style="list-style-type: none"> <li>• The details specified for inclusion in a « Policy » include a lot of descriptive elements rather than high-level principles. This is a procedure not a policy. A more principle-based formulation of the guideline should be used instead.</li> <li>• We interpret the purpose of point b) as being a consideration of the current risk position against the approved risk tolerance limits.</li> <li>• We recommend removing from the policy the <i>“justification of it's adequacy particularly taking into account the undertaking's risk profile and the volatility of its overall solvency needs relative to its capital position”</i> as we would expect this type of information / conclusion to be included in a report that describes the outcomes of the forward looking assessment (Internal Report).</li> <li>• We would also recommend removing the data quality standards from the forward looking policy as this would typically be part of the policy on data quality required in the System of Governance.</li> </ul>	
1.34	<p>As noted above, the Explanatory Text should be treated as providing additional guidance and not as a vehicle for setting out additional mandatory requirements as seem to be applied here to Guideline 8.</p> <p>See also general remarks, the reference to Solvency II should be removed and the statement 'should ensure that' should be replaced with 'should require that the undertaking take preparatory measures to appropriately evidence....'</p>	
1.35	<p>We understand Article 45 of the Framework Directive does not require the AMSB to approve the Own risk and solvency assessment, nor does it require the AMSB specifically to communicate the results to all relevant staff. We would require this guideline to be more in line with Article 45.</p>	

**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

	Furthermore, reference to Solvency II should be removed and the statement 'should ensure that' should be replaced with 'should require that the undertaking takes steps to communicate....'.	
1.36	<p>In principle, we strongly disagree with the second part of this requirement which describes somewhat the content of an ORSA report to the supervisor (see comments paragraph 1.3). As stated in the introduction and as outlined by the CRO Forum position paper on the ORSA report, by nature, an ORSA supervisory report should reflect the firm's internal ORSA report, hence its structure should be flexible and dictated by the firm's approach to ORSA. We would recommend to delete this paragraph.</p> <p>Furthermore, we feel that at this stage of the implementation phase 2 weeks to provide a supervisory report is an unrealistic time frame. We reiterate our concern that no additional supervisory actions should be required based on these figures that would otherwise not have been taken.</p>	
<b>Section III. General Comments</b>	It will only be possible to fully comply with Guidelines 11, 14, 15 and 16 (paragraphs 1.37-1.38, 1.42-1.44) following provision of final Solvency II Pillar 1 guidance, Further to our general comments we feel it is not necessary to introduce these guidelines in advance of Solvency II coming into force.	
1.37	See our general remarks: we see no benefit in performing this comparison with Solvency II requirements at this stage.	
1.38	<p>See our general comments: we see no benefit in performing this comparison with Solvency II requirements at this stage.</p> <p>Furthermore, this paragraph is inconsistent with the concept of preparation and should be re-stated to a requirement.</p>	
1.39	See general remarks, the reference to Solvency II should be removed. The statement 'should ensure' should be replaced with 'should require firms to take preparatory steps...'. It should be clear that this applies to quantifiable risks.	

<b>Comments Template on Consultation Paper on the            Proposal for Guidelines on            Forward Looking assessment of the undertaking's own risks            (based on the ORSA principles)</b>		<b>Deadline            19 June 2013            12:00 CET</b>
1.40	See general remarks	
1.41	See general remarks, the reference to Solvency II should be removed. The statement 'should ensure' should be replaced with 'should require the undertaking's assessment...' We would further bring to the attention of NCAs that the forward looking perspective needs to be adapted to the company's business planning period.	
1.42	See our general comments: we see no benefit in performing this comparison with Solvency II requirements at this stage.	
1.43	See our general comments: we see no benefit in performing this comparison with Solvency II requirements at this stage.  However, it could be required for those undertakings in the internal model pre-application process to demonstrate how the actuarial function(s) is/are involved in phasing in the solvency II requirements on Technical Provisions, and if they have conducted impact analysis under any form to this effect.	
1.44	See our general comments: we see no benefit in performing this comparison with Solvency II requirements at this stage.	
1.45	This paragraph in particular raises the issue previously commented on in our Cover Note about how these Guidelines should <b>not be interpreted</b> as requirements to be implemented as of 2014 but as requirements to be worked towards in this preparatory phase. With regards to this paragraph:  a) It is not clear how compliance with this Guideline will be demonstrable for at least the early iterations of the forward looking assessment. We understand the preparatory phase covered by the Guidelines as a period within which the forward looking assessment becomes embedded into decision making processes such as those listed. It will therefore be challenging to achieve compliance with this Guideline until much closer to full Solvency II application.  b) It will not be possible to assess or attest the extent to which this Guideline is met in the	

**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

	supervisory report on the forward looking assessment due within 2 weeks of completion of the forward looking assessment. This assessment or attestation will need to be completed separately or on a rolling basis (i.e. based on the prior year forward looking assessment), see also 1.36.	
1.46	A difference should also be made between a full forward looking assessment of own risks which may happen once a year, and a partial one which may happen more frequently and may be used in the process mentioned in the requirements. This is to allow for more flexibility and accuracy of the information used in these process.	
<b>Section IV. General Comments</b>		
1.47		
1.48		
1.49		
1.50		
1.51		
1.52		
1.53		
<b>Compliance and Reporting Rules General Comments</b>	In line with Article 16(1) of the EIOPA Regulation, we would expect that as part of consistent, efficient and effective supervisory practices, that the guidelines should focus on the framework for supervision. The wording 'should ensure that' effectively sets requirements that must be met by both undertakings and supervisors that goes beyond guidelines and recommendations when 'comply or explain' is applied.	
1.54		
1.55		
1.56		
1.57		

**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

<b>Impact Assessment – General Coments</b>	Generally, in paragraphs 2.1-2.8 it is difficult to understand the points being made.	
2.1		
2.2		
2.3	Item (a) could also be a cost of issuing preparatory guidelines – i.e. processes and systems put in place or reassessment of priorities in Solvency II projects in order to meet the Guidelines in a compliance oriented approach rather than a phasing-in approach. Additional costs might also be needed later in the event there are changes to those Guidelines when Solvency II is fully implemented.	
2.4		
2.5	This paragraph is particularly difficult to understand.	
2.6	This paragraph is particularly difficult to understand.	
2.7		
2.8		
2.9		
2.10		
2.11		
2.12		
2.13		
2.14		
2.15		
2.16	Paragraph (a) implies that some of the Guidelines are prescriptive requirements rather than principle based. Again, we are strongly opposed to any Guidelines that would be prescriptive and not principles oriented. Those Guidelines that are not principles based in the opinion of EIOPA should be immediately communicated to the industry so that we may engage an active discussion with EIOPA on these points.	
2.17		
2.18		

**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

2.19		
2.20		
2.21		
2.22		
2.23		
2.24		
2.25		
2.26		
2.27		
2.28		
2.29		
2.30		
2.31	Do these preparatory Guidelines replace the draft L3 Guidelines on the ORSA published in July 2012, or are they intended only for the interim preparatory phase? I.e. for the full application of Solvency II, is the intention to revert back to the Guidelines published in July 2012 or to move on to some evolution of the preparatory Guidelines?	
2.32		
2.33		
2.34		
2.35		
2.36		
2.37		
2.38		
Question 1	This would add additional constraints on firms at a time when they are still regulated on a Solvency I basis. See our Cover Note	
Question 2	As explained in response to 1.36, an ORSA report, whether internal or to the supervisor, should reflect the nature of the firm's specific approach to ORSA and therefore can be very different from	

**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

	one firm to another.	
Question 3		
Question 4	Providing details on the policy contents creates a risk of duplication with other policies required for example in Article 44. See our general comments on policies.	
Question 5		
Question 6	Using an internal model in the ORSA for firms in pre application process is very important to foster the use and embedding of Internal Models. Not allowing use of Internal models would impact firms in pre application process ability to progress on the Use Test.	
2.39		
2.40		
2.41		
2.42		
2.43		
2.44		
2.45		
2.46		
2.47		
2.48		
2.49		
2.50		
2.51		
2.52		
2.53		
2.54		
2.55		
2.56		

**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

2.57		
2.58		
2.59		
2.60		
2.61		
2.62		
2.63		
2.64		
2.65		
2.66		
2.67		
2.68		
2.69		
2.70		
2.71		
2.72		
2.73		
2.74		
2.75		
2.76		
2.77		
2.78		
2.79	This is sensible, but is not reflected in Guideline 3. It is less onerous to „explain the effect if it turns out the undertaking has to use the standard formula as approval for the model is refused“ than what guideline 3 says „the undertaking concerned also performs the assessment....“	



**Comments Template on Consultation Paper on the  
Proposal for Guidelines on  
Forward Looking assessment of the undertaking's own risks  
(based on the ORSA principles)**

**Deadline  
19 June 2013  
12:00 CET**

	The final sentence of this paragraph (beginning "Guideline 24 states ..." appears to be inconsistent with paragraph 1.28 (relating to Guideline 3) suggesting that the decision on Question 6 has not been properly/accurately reflected in the preparatory Guidelines on thresholds.	
2.80		
2.81		
2.82		
2.83		
2.84		
2.85		
2.86		
2.87		
2.88		
2.89		
2.90		