

Comments Template on EIOPA-CP-14-047		Deadline
Draft proposal for Level 3 Guidelines on reporting and public disclosure		02.Mar.2015
		23:59 CET
Company name:	Insurance and Reinsurance Stakeholder Group (IRSG)	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the right and by inserting the word Confidential.	Public
<p>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in column "Reference". ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below. <ul style="list-style-type: none"> ○ If your comment refers to multiple paragraphs, please insert your comment at the first relevant paragraph and mention in your comment to which other paragraphs this also applies. ○ If your comment refers to sub-bullets/sub-paragraphs, please indicate this in the comment itself. <p>Please send the completed template to Consultation_Set2@eiopa.europa.eu, in MSWord Format, (our IT tool does not allow processing of any other formats).</p> <p>The paragraph numbers below correspond to Consultation Paper No. EIOPA-CP-14-047.</p>		
Reference	Comment	
General Comment	<p>1) The Guidelines must not extend the level 2 (or level 1) requirements but provide details on them. Examples:</p> <p>- Level 2 guidance (Art. 298 of Delegated regulation) enables undertakings to disclose and report any information considered to be important and supervisors are empowered to require any other information (Art. 304 of Delegated regulation). Several of the guidelines referring to the RSR</p>	

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(Guidelines 30, 34, 36 and 38) specify reporting on “any other information” or “any other material information” (of structure of SFCR/RSR, Annex XX Delegated regulation). (If the guidelines specify only that disclosure and reporting required in the Delegated regulation should be done in these sections (as it should be true for Guideline 24, reporting about intra-group transactions) the Guideline should refer to the relevant source in the Delegated regulation.)

- Level 1 requires insurers to have appropriate systems and structures in place to fulfill the reporting as well as a written policy, approved by the administrative, management or supervisory body of the insurance or reinsurance undertaking, ensuring the ongoing appropriateness of the information submitted. GL 47 requires approval of the QRTs which goes beyond level 1.

2) Double reporting should be avoided (e.g. GL 2 on governance provides only little added value).

3) These guidelines should follow the structure in the Delegated Acts: The structure of the SFCR and the RSR are divided into headings as set out in Annex XX of the Delegated Regulation and each heading is explained in detail in the Delegated Acts, however, this is not followed in the guidelines.

4) The explanation of the relationship to CP-14-045 (Financial Stability Reporting), CP-14-052 (RSR) and CP-14-055 (SFCR) in the introduction should be improved, since the Annex to these guidelines consists of the validation rules in relation to the information requested for QRTs (linking to the updated templates and LOGs).

5) Subject to our detailed comments to single Guidelines below Guidelines 23, 27, 30, 31, 32, 33, 36 and 37 are not in line with the proportionality principle as is there no indication that only material information is required.

6) Scrutiny of the guidelines is required: The wording of the guidelines causes confusion rather than provide clarity, as the sentences are long with limited punctuation making readability very difficult. For example, there are many words either missing in sentences or not deleted. We encourage EIOPA

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	to revisit the wordings to ensure consistency and clarity. We have included some editorial suggestions in the comments.	
1.1.	<u>Guideline 1 – Business:</u> par. 1.13 b): “A list of material (what does this mean?) related undertakings..... proportion of voting rights held”	
1.2.	<u>Guideline 2 – Governance Structure:</u> Editorial: - <u>par. 1.14:</u> “should explain how the risk ” - <u>par. 1.15 last line:</u> “the insurance or reinsurance undertaking”	
1.3.	<u>Guideline 3 – Risk management system:</u> Editorial: - <u>par. 1.16 second line:</u> put comma after “Implementing Measures”. This should be done under each paragraph. It is not done consistently and makes the text difficult to read - <u>par. 1.16 intro last line:</u> “disclose at least the following information regarding the governance of the internal model: ” - <u>par. 1.16 a):</u> “ The responsible persons...” - <u>par. 1.16 b):</u> “to meet the requirements of Article 116 of Directive 2009/138/EC ” - <u>par. 1.16 d):</u> “process of the internal model in order to ...”	
1.4.	<u>Guideline 4 – Underwriting risk:</u> Editorial: - <u>par. 1.17:</u> “insurance and reinsurance undertakings should, regarding the use of ... under Article 221 of Directive 2009/138/EC... ”	
1.5.	<u>Guideline 5 – Assets – Information on aggregation by class:</u> - <u>par. 1.19:</u> We wonder why it is referred to a “clearer and more relevant presentation” only without considering costs. We suggest to use a concept allowing other classes only if they lead to a presentation which is less costly but not less clear/relevant.	

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1.6.	<p><u>Guideline 6 – Content by material classes of assets and liabilities other than technical provisions:</u></p> <p>1) It seems not to be consistent that in the heading and in the description of requirements in detail the GL refers to assets and liabilities whereas the reporting should take place under the section “assets”.</p> <p>2) Under 2.12) in the explanatory text it is stated that in fulfilling the requirement of GL 6a) to report the “recognition and valuation basis applied, including methods and inputs used” the undertakings also describe the judgements made other than estimations which could materially affect the amounts recognised. Perhaps it should be stated in the GL itself and not only in the explanatory text, that estimations <u>and</u> other judgements are meant here, in order to avoid misunderstandings.</p> <p>3) Editorial:</p> <ul style="list-style-type: none"> - <u>par. 1.20 a)</u>: “The recognition and valuation bases used, including the methods...” - <u>par. 1.20 b)</u>: “valuation bases used or to estimations” 	
1.7.		
1.8.	<p><u>Guideline 8 – Valuation of material financial assets:</u></p> <p>Editorial: par. 1.22 c): “Significant changes to the valuation methods..”</p>	
1.9.		
1.10.	<p><u>Guideline 10 – Valuation of material deferred taxes assets and liabilities:</u></p> <p>Editorial:</p> <ul style="list-style-type: none"> - Title: “Valuation of material deferred tax assets and liabilities” - par. 1.24: intro: “material deferred tax assets and liabilities” 	
1.11.	<p><u>Guideline 11 – Valuation of related undertakings:</u> The GL itself refers to related undertakings, the explanatory text to subsidiaries, which is something different. So, the explanation should be aligned with the GLs.</p>	

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1.12.	<u>Guideline 12 – Valuation of technical provisions:</u> Editorial: par. 1.26: last line: “including those for calculating the risk margin ”	
1.13.	<u>Guideline 13 – Liabilities other than technical provisions:</u> We wonder why it is referred to a “clearer and more relevant presentation” only without considering costs. We suggest to use a concept allowing other classes only if they lead to a presentation which is less costly but not less clear/relevant (see also comment on GL 5).	
1.14.		
1.15.	<u>Guideline 15 – Valuation of material provisions other than technical provisions and contingent liabilities:</u> Editorial: par. 1.30: intro: “regarding material provisions other than technical provisions and contingent liabilities, separately: ”	
1.16.	<u>Guideline 16 – Valuation of material employee benefits:</u> Editorial: - <u>par. 1.31 a):</u> “The nature of the liabilities for employee benefits and a breakdown of the amounts by nature of the liability ” - <u>par. 1.31 b):</u> “the percentage of each class of assets with respect to the total defined...”	
1.17.	<u>Guideline 17 – Own funds – Solvency ratio:</u> Editorial: par. 1.33 second line: “are relevant for providing”	
1.18.	<u>Guideline 18 – Own funds – Information on the structure, amount, quality and eligibility of own funds:</u> Editorial: - <u>par. 1.34 a):</u> “ with regard to the information on the structure”	

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	<ul style="list-style-type: none"> - <u>par. 1.34 c)</u>: "an analysis of significant changes in own funds" - <u>par. 1.34 h) i)</u>: "the tier into which each basic own fund item has been" - <u>par. 1.34 i)</u>: "when describing each material ancillary own fund item, information on the type of arrangement and the nature of the basic own fund item which each material ancillary own fund item would become on being called up.....as well as when the item was approved by the supervisory authority" 	
1.19.		
1.20.	<p><u>Guideline 20 – Information on the scope of the group:</u> Editorial: par. 1.36: "mixed financial holding companies should explain the material differences between the scope of the group used for the consolidated financial statements and those"</p>	
1.21.	<p><u>Guideline 21 – Information on own funds – groups:</u> Editorial:</p> <ul style="list-style-type: none"> - <u>par. 1.37 a)</u>: "other than the participating insurance undertaking, insurance holding company or mixed financial holding company" - <u>par. 1.37 b)</u>: delete the words "should be provided" - <u>par. 1.37 d)</u>: "issued by an undertaking that is not an insurance or reinsurance undertaking and is subject to tiering requirements other than the Solvency II requirements" 	
1.22.		
1.23.	<p><u>Guideline 23 – Underwriting performance:</u> Editorial: par. 1.39 a): "the impact of the risk mitigation"</p>	
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1.27.		
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1.30.	<p><u>Guideline 30 – Any other material information:</u> This should not be requested in separate guidelines as the Delegated Acts do not specify what has to be reported here apart from requiring consistency between SFCR and RSR. So, the information requested here goes beyond the Delegated Acts.</p>	
1.31.	<p><u>Guideline 31 – Valuation of deferred tax assets:</u> Paragraph 1.48 provides some guidance on the QRTs S.03.03 on reporting of off-balance sheet items – list of unlimited guarantees. As it does not deal with deferred tax assets it should form an own guideline rather than be included here.</p>	
1.32.	<p><u>Guideline 32 – Technical Provisions:</u></p> <ul style="list-style-type: none"> - The GL requires detailed information on contract boundaries, key options and guarantees and homogeneous risk groups. For reporting and disclosure at group level the burden of providing information is out of proportion in view of the benefit. So, the requirement should be limited to Solo-Reporting only. - It would make sense also to require the reporting of durations of technical provisions here given that currently no requirement exists to report durations of technical provisions. However a definition of duration would be needed as a precondition for doing this. Correspondingly this should also be required as regards assets. 	
1.33.		
1.34.	<p><u>Guideline 34 – Any other material information:</u> This should not be requested in separate guidelines as the Delegated Acts do not specify what has to be reported here apart from requiring consistency between SFCR and RSR. Neither the framework directive nor the delegated acts require a “description of the nature and appropriateness of the data used”. So, the information requested here goes beyond the Framework Directive and the Delegated</p>	

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	Acts.	
1.35.		
1.36.	<p><u>Guideline 36 – Any other material information on business:</u> This should not be requested in separate guidelines as the Delegated Acts do not specify what has to be reported here apart from requiring consistency between SFCR and RSR. So, the information requested here goes beyond the Delegated Acts.</p>	
1.37.	<p><u>Guideline 37 – Risk profile:</u> Editorial: par. 1.54 j): “ or a liability or whether it is an”</p>	
1.38.	<p><u>Guideline 38 – Any other material information:</u> This should not be requested in separate guidelines as the Delegated Acts do not specify what has to be reported here apart from requiring consistency between SFCR and RSR. So, the information requested here goes beyond the Delegated Acts.</p>	
1.39.	<p><u>Guideline 39 – Identification and trigger for reporting of pre-defined events:</u> The definition of pre-defined events provided in this guideline is too broad, and it could lead to confusion. Submission of information upon occurrence of pre-defined events should stick to those cases recognized in the Directive (e.g.: articles 102 (1), 129 (4), 138 or 245), the Implementing Measures (e.g.: articles 62, 191 or 257 (1)). Therefore, this guideline should be omitted.</p>	
1.40.	<p><u>Guideline 40 – Supervisory reporting following pre-defined events – additional ORSA:</u> Editorial: par. 1.57: “with Article 45(5) of Directive 2009/138/EC as a result of a”</p>	
1.41.	<p><u>Guideline 41 – Public disclosure policy:</u></p> <ul style="list-style-type: none"> - Under b) with the requirement to disclose the processes for completion of the various disclosure requirements and for review and approval by the AMSB two different points are included under one line item. We suggest to split the requirements in two different items. 	

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	<ul style="list-style-type: none"> - Editorial: <ul style="list-style-type: none"> o <u>par. 1.58 c</u>): "that the insurance or reinsurance undertaking believes is equivalent" o <u>par. 1.58 d</u>): "that the insurance or reinsurance undertaking... set out in Article 53(1) of Directive 2009/138/EC" o <u>par. 1.58 e</u>): "under Article 54(2) of Directive 2009/138/EC" 	
1.42.	<u>Guideline 42 – SFCR – Non-disclosure of information:</u> Editorial: par. 1.59: "should not enter into a contractual obligation with policyholders or other counterparty relationships binding them to secrecy "	
1.43.	<u>Guideline 43 – RSR – Format of reporting:</u> Editorial: par. 1.60: "templates and consider the data"	
1.44.		
1.45.	<u>Guideline 45 – RSR – References to other documents:</u> Editorial: par. 1.62: "these references should lead directly"	
1.46.	<u>Guideline 46 – Reporting policy:</u> <ul style="list-style-type: none"> - By referring to Guideline 7 of the Guidelines on System of Governance this Guideline can only apply if Guideline 7 exists (as drafted); so Guideline 7 is stipulated by Guideline 46. We would prefer a more pragmatic wording in order not to create unnecessary bureaucracy. - Editorial: par 1.64 b) "set out processes and timelines s for completion" 	
1.47.	<u>Guideline 47 – Approval of information to be submitted to the supervisory authority:</u> It is required here that insurance and reinsurance undertakings should have the transitional information, the RSR and the annual quantitative reporting templates approved by the AMSB before submitting them to their supervisor. In our view it should be sufficient for the AMSB to approve the qualitative reporting because there are also all quantitative main figures included. It should be	

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	sufficient to approve the detailed quantitative data by the department leads, not by the AMSB. So, this guideline should be deleted. See also general comments above.	
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Comments on the Explanatory text	<p><u>Guideline 6 – Content by material classes of assets and liabilities other than technical provisions:</u> Editorial: par. 2.12: “in line with Directive 2009/138/EC” Property: Editorial: par. 2.16: “by market evidence or whether it is more heavily based on other facts. If the</p>	

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latter **is the case**, these facts”

Inventories:

Editorial: par. 2.17: “When undertakings included....because they consider **that** the **difference** between the net...and **the** fair value **is** immaterial”

Guideline 14 – Valuation of material lease liabilities:

Editorial: par. 2.34: “into account changes in **their** own credit standing”

Guideline 15 – Valuation of material provisions other than technical provisions and contingent liabilities:

Editorial: par. 2.37: “where market **values** of liabilities”

Guideline 16 – Valuation of material employee benefits:

Editorial: par. 2.40: “differences between the general **purpose financial statements**”

Guideline 27 – Risk Profile:

Editorial: par. 2.68: “defined in Article 132(4) of **Directive 2009/131/EC**”

Guideline 39 – Identification and trigger for reporting of pre-defined events:

Editorial:

- par. 2.78: intro: “provided for by **Directive 2009/131/EC**”

59. a) “Article 102(1) **which** explicitly states”

60. b) “Article 129 (4) **which** requires”

61. c) “Article 138 **which** requires”

d) “**Article 245 which requires** groups subject to group supervision under Solvency II to report”

- par. 2.79: same structure as above

- par. 2.80:

63. c): “internal organisational **restructuring**”

64. e): “include the amount and reason for **the** change”

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	<p>65. i): "internal and/or external investigation"</p> <p>66. i): "mandated in Article 42(3) of Directive 2009/131/EC, but"</p> <p>67. j): "by the general meeting"</p> <p>- <u>par. 2.84</u>: "undertakings are not required to report information.... authorisations process they are subject to"</p> <p><u>Guideline 41 – Public disclosure policy:</u></p> <p>Editorial: par. 2.87: "Article 55(1) of Directive 2009/131/EC" – also in 2.91 and 2.92</p> <p><u>Guideline 45 – RSR – References to other documents:</u></p> <p>Editorial: par. 2.90: "Elements from disclosures.... but they are included"</p>	
Annex I ¹	<p><u>Annex I – Impact Assessment: Analysis of impact par. 1.14 (Costs):</u></p> <p>It is stated here that "the proposed guidelines build on other policy requiring industry to generate the SFCR and RSR and that therefore the impact of having guidelines...in terms of costs was considered as not material". We want to address that the costs for additional IT infrastructure, automation, human resources and capital are very high, especially for smaller insurance companies. This will have a negative impact on the overall insurance market: the number of insurance undertakings will decrease, which would result in decreased completion. Subsequently, the customers will pay higher costs. It is important to be sensible with the phasing in of the reporting, calculation and documentation requirements in the first years.</p> <p><u>Annex I – Impact assessment: Policy options, par. 1.11 and par. 1.19:</u></p> <p>In our view option 2 – which is the preferred option of EIOPA – sounds reasonable because of the balance between „supervisors establishing requirements at more or less same level on one hand, maintaining certain level of judgment and flexibility without being too restrictive and rules based on the other hand“.</p>	

¹ If you have specific comments on Technical Annex 1 – Validations, please provide them line by line.