

	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:	Powszechny Zakład Ubezpieczeń Spółka Akcyjna Powszechny Zakład Ubezpieczeń na Życie Spółka Akcyjna	
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 CP-13-009@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</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>	
Reference	Comment	Resolution
General Comment	<p><u>Timeline for the Guidelines Implementation</u></p> <p>The time table for guidelines implementation should to greater degree incorporate proportionality principle and should not force implicitly (indirectly) earlier, de facto implementation of Solvency II requirements like calculation of Pillar II requirements at excessively detailed level generating costs that are not justified by the purpose of guidelines</p>	

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	<p>Requirements of “step-by-step” implementation should not be too burdensome and cannot generate costs not proportionate to the aim of the regulations.</p> <p>Additionally, as we understand, EIOPA intends to publish the guidelines in the areas covered by this consultation in the autumn of this year. According to Article 16(3) of the EIOPA Regulation NCAs 'shall make every effort to comply with the guidelines, This means in practice, that NCA and insurance undertakings will have limited time of <u>two months</u>, following issuance of the guidelines (the date of issuance of the guidelines is the date on which the guidelines are published in each of the official EU languages) to confirm whether they comply or intend to comply with the guidelines. It is clear that such confirmation should not be automatic but result from a solid analysis of the proposed requirements vis a vis existing capacities (people, IT, infrastructure, budgets) both in NCA and insurance undertakings. And even if in some cases the answer might be positively confirming readiness to comply in other cases, requiring technical preparation, budget, project, and people, this will not be possible to implement on proposed date. Hence, taking these arguments into account, we have doubt if it is possible for insurance undertakings to prepare for implement the guidelines from 1 January 2014. In our opinion it would be advisable to spend 2014 for local consultations (i.e. based on intensive, technical dialogue between local regulators and local insurance industry) to better prepare for the implementation of the guidelines. Then, it is more realistic that the guidelines could go live starting January 2015.</p> <p><u>FLAOR application</u></p> <p>According to current timeline of FLAOR first reporting (reporting at the beginning of 2015 covering 2014.01.01 – 2014.12.31 period) the undertakings will be required to present that the FLAOR results are taken into account in terms of strategic planning, risk management and product development processes. Moreover the undertakings are going to be required to prove that the administrative, management or supervisory body incorporates FLAOR in its decision making process. Implementation of FLAOR in 2014 may result in undesired consequences of confusion and dual approaches used in the same time where the undertaking will base its business decision</p>	

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	<p>using FLAOR (Solvency II regime) while the legally required reporting will be still based on Solvency I regime. Moreover part of the market (undertakings) which will not be in the threshold of the FLAOR implementation will have an competitive advantage over those undertakings which will be in scope of FLAOR implementation (e.g. the decision regarding dividend payment for those undertakings, which will be out-of-scope of FLAOR in 2014, will be based on Solvency I regime rather than Solvency II regime).</p> <p><u>Basis for Guidelines Implementation</u></p> <p>We welcome the view, that EIOPA recognises that in a significant number of member states, the NCA does not have the legal competence to enact the relevant financial legislation and is dependent on the powers bestowed upon it. Additionally, special attention should be paid by NCAs to determine how to comply with EIOPA guidelines by incorporating them into their regulatory or supervisory framework in an appropriate manner, especially if they are less stringent or less precise than local legally binding regulations (e.g. in case of outsourcing; fit & proper requirements). Moreover we support the EIOPA view that the guidelines do not require NCAs to take supervisory action, and <u>in our opinion – it should be clearly stated that no such regulatory actions should be taken</u>, as a result of a failure by undertakings to comply with Solvency II requirements, including the Pillar I, II and/or III requirements.</p> <p><u>FLAOR methodology</u></p> <p>FLAOR is required to be based on Solvency II techniques which are currently not entirely defined (especially in the area of long term obligations). On the other hand FLAOR will be required to be used already in 2014 which means that the implementation must take place till the end of 2013. In our opinion the undertakings will have extremely limited time period of 2-3 months for proper implementation of FLAOR after the announcement of Omnibus II which is obviously regarded as too short period.</p>	

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	<p><u>Purpose of FLAOR</u></p> <p>As far as the concept of FLAOR is concerned there should be a clear differentiation between SCR reporting and FLAOR reporting. We believe that the local NCA should rather focus on the inclusion of FLAOR processes in undertaking's internal process and strategic planning than <u>on FLAOR quantitative results</u>. Moreover there is a risk that the local NCA will use the quantitative results to indirectly influence the undertaking for example through the regulation/recommendation regarding dividend payment or capital add-on. Equivalent criteria are already used in other sectors like banks by regulators to define possibility of dividend payment and if FLAOR is implemented pre-maturely and too early it can be treated as such criterion even without formal endorsement of Solvency II. Also, in that way in our opinion in such case the undertaking would be required to perform a double reporting: the results of SCR (based on Standard Formula or Internal Model) and the results of FLAOR. What is questionable for us is which part of the quantitative reporting (SCR or FLAOR) will be perceived by NCA as leading.</p> <p><u>Necessity of Internal Model</u></p> <p>The current FLAOR requirements are more in line with the concept of Internal Model than with the concept of Standard Formula calculation. In our opinion the undertakings which have decided to report SCR on the basis of Standard Formula are not going to avoid the application of some sort of Internal Model as it will be indirectly required through FLAOR. In other words the simplifications applied through Pillar I (Standard Formula calculation) will result in more extensive requirements of Pillar II (FLAOR) which is not EIOPA declared intention but the wording suggests otherwise. We believe that the Standard Formula was introduced as a simplified, unified approach which is consistent for all undertakings. The same approach in our opinion should be applied to FLAOR – the undertakings shouldn't be required to introduce complex, undertaking-specific semi Internal Models to fulfil FLAOR requirements. Additionally in our opinion the analysis of deviation of undertaking's risk profile from risk profile applied through Standard Formula or Internal Model should be excluded from the FLAOR requirements.</p>	

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	<p><u>FLAOR Disclosure</u></p> <p>According to current FLAOR guidelines it is not clear whether FLAOR quantitative results will be disclosed. In our opinion in case of the requirement of FLAOR disclosure there is a risk that the FLAOR results will bring additional confusion while confronted with information reported under other frameworks such as local GAAP and IFRS. In other words we believe that FLAOR quantitative results shouldn't be treated as additional reporting package which is publicly disclosed as the public disclosure will in fact make the FLAOR quantitative results official. This would be not in line with FLAOR objective.</p> <p><u>FLAOR reporting timeline</u></p> <p>Based on current timing proposal of FLAOR reporting the FLAOR results (Pillar II) are going to be reported together with SCR and other required data (Pillar III). It means that FLAOR process will take place after the closing of financial year (current deadline of FLAOR reporting is 28th of February 2015). According to FLAOR concept the undertaking should demonstrate that FLAOR process is incorporated in strategic planning. Based on our experience regarding standard undertaking's processes timeline the strategic planning (preparation of midterm plans, budgeting etc.) usually takes place in the middle of the year (between June and October) hence the FLAOR reporting timeline should be more flexible – in our opinion reporting deadlines must be consistent with the strategic planning process timeline.</p> <p><u>Annual Progress report</u></p> <p>In our opinion the annual progress report prepared by local NCA should not be supplemented by any kind of comply or explain procedure (e.g. local peer review report etc.). Such report would require the analysis of compliance of each undertaking with the interim measures requirements. We believe that the compliance should be tested on the basis of final requirements after the official introduction of Solvency II.</p>	

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Introduction General Comment		
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1.6	Please refer to General Comments section (Timeline for the Guidelines Implementation).	
1.7	In our opinion the annual progress report prepared by local NCA should not be supplemented by any kind of comply or explain procedure (e.g. local peer review report etc.). Such report would require the analysis of compliance of each undertaking with the interim measures requirements. We believe that the compliance should be tested on the basis of final requirements after the official introduction of Solvency II.	
1.8	<p>With reference to point 1.11, 1.19, 1.28, 1.29 and 1.44.</p> <p>According to point 1.8 the NCAs are expected to make sure that the undertakings “take a forward looking view on the risks to which they are exposed”. Moreover, according to point 1.11 the NCAs “are not expected to ensure that the undertakings which are in the pre-application process perform an assessment of the significance of their risk profile deviating from the assumptions underlying the SCR calculation in their” FLAOR. Additionally according to point 1.19 the “undertakings applying for the approval of an internal model are expected to use the model in assessment of their overall solvency needs”.</p> <p>In our opinion the combination of the meaning of point 1.8, 1.11, 1.19, 1.28, 1.29 and 1.44 leads to conclusion that for the purpose of FLAOR every undertaking will be expected to create some sort of Internal Model. Even in case the undertaking will decide to calculate and report the SCR on the basis of Standard Formula, the FLAOR requirements (assessment of own risk profile) will result</p>	

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	<p>in fact in the application of Internal Model – otherwise the undertaking will have to prove that its own risk profile is consistent in every detail (also parameterisation) with Standard Formula.</p> <p>To sum it up we believe that the Standard Formula was introduced as a simplified, unified approach which is consistent for all undertakings. The same approach in our opinion should be applied to FLAOR – the undertakings shouldn't be required to introduce complex, undertaking-specific semi Internal Models to fulfil FLAOR requirements. Additionally in our opinion the analysis of deviation of undertaking's risk profile from risk profile applied through Standard Formula or Internal Model should be excluded from the FLAOR requirements.</p>	
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1.11	Please refer to point 1.8.	
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1.19	Please refer to General Comments section (Timeline for the Guidelines Implementation).	
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Section I. General Comments		
1.22	Please refer to General Comments section (Timeline for the Guidelines Implementation and Basis for Guidelines Implementation).	
1.23	<p>At this moment of time it is not clear how local NCA will ensure that undertakings take appropriate steps to introduce FLAOR. In our opinion local NCA should clearly define its expectations regarding the shape of FLAOR and the steps of its introduction. Based on the proposed timeline (introduction of local guidelines on 1st of January 2014) we would like to suggest dedicating the whole year 2014 to local pre-application discussions between NCA and undertakings which would lead to mature and well orchestrated preparation of detailed and precise local implementation timeline covering both implementation deadlines and details regarding qualitative and quantitative FLAOR requirements. Based on our proposal we believe that the real implementation process should take place in 2015 and as a result the first FLAOR reporting should be performed in 2016.</p> <p>It is also unclear how the NCA can legally influence the undertaking to take appropriate steps in terms of FLAOR implementation. In other words there is a risk that before 2014.01.01 it will be not possible to introduce appropriate legal acts which will give local NCA the power to request undertakings to apply FLAOR.</p>	
1.24	In our opinion the annual progress report prepared by local NCA should not be supplemented by any kind of comply or explain procedure (e.g. local peer review report etc.). Such report would require the analysis of compliance of each undertaking with the interim measures requirements. We believe that the compliance should be tested on the basis of final requirements after the official introduction of Solvency II.	
1.25	Please refer to point 1.23.	
1.26	<p>With reference to point 1.31, 1.33 and 1.34 of "Consultation Paper on Proposal for Guidelines on submission of information to national competent authorities":</p> <p>According to point 1.31 the NCA "should calculate the national market share (...) based on the</p>	

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	<p>data submitted by insurance (...) undertakings for the purpose of supervisions on the annual reporting period ending during 2012".</p> <p>Points 1.33 and 1.34 state that the market share of undertaking should be based on the undertaking's level of gross technical provisions for life business and gross premium written for non-life business.</p> <p>In our opinion there is a potential risk that 2012 year end information will not be representative for 2014.01.01-2014.12.31 reporting especially in terms of fast growing markets. For example in terms of Poland the 2012 data might not be representative for life business due to large number of short term investment products which had a strong impact on the balance sheet position of technical provisions.</p> <p>The local NCA should have an ability to base on most recent data available (as far as the data are complete and accurate and refer to all market players), but within the timeline defined in point 1.35 (the NCA must notify the undertaking of falling into defined thresholds no later than 11 months before the initial submission reference dates).</p>	
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1.28	Please refer to point 1.8.	
1.29	<p>Please refer to point 1.8.</p> <p>In our opinion if the undertaking is not able to prove that its risk profile is in line with risk profile defined in Standard Formula (including shocks parameterisation), the undertaking will be required to introduce some sort of Internal Model to meet the FLAOR requirements. This will lead to additional costs and workload for undertakings which will decide to report SCR under Standard Formula.</p>	
Section II. General Comments		
1.30	This concept is much closer to the idea of Internal Model than the idea of Standard Formula. In our opinion the FLAOR requirements should be consistent with the approach to SCR calculation.	

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1.31	<p>In our opinion before the implementation phase the local NCA should define the form of evidence which will prove “that the administrative, management or supervisory body of the undertaking takes an active part” in FLAOR (particularly in the area of challenging the FLAOR results and underlying assumptions). Without proper definition of required evidence the FLAOR process cannot be appropriately set-up.</p> <p>Additionally it is worth mentioning that the Article 45 of Solvency II does not require the administrative, management or supervisory body to manage the ORSA process. Due to this fact we would like to propose to require the involvement of the administrative, management or supervisory body only in the assessment of ORSA results.</p>	
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1.36	<p>In our opinion the requirements of supervisory reporting, distorts the declared objective of earlier implementation of the guidelines and put much more emphasis on quantitative results of FLAOR than on the fact that the FLAOR should be predominantly applied to the undertakings internal processes like strategic planning (business planning, asset management, product development process). We do not understand why the comparison between overall solvency needs (FLAOR) and a regulatory capital requirement (SCR) is necessary. This type of comparison may lead to inappropriate conclusions and create confusion.</p> <p>As far as the concept of FLAOR is concerned there should be a clear differentiation between SCR reporting and FLAOR reporting. We believe that the local NCA should rather focus on the inclusion of FLAOR process in undertaking's strategic planning than on FLAOR quantitative results. Moreover there is a risk that the local NCA will use the quantitative results to indirectly influence the undertaking for example through the regulation/recommendation regarding dividend</p>	

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	<p>payment or capital add-on. In our opinion in such case the undertaking would be required to perform a double reporting: the results of SCR (based on Standard Formula or Internal Model) and the results of FLAOR. What is questionable for us is which part of the quantitative reporting (SCR or FLAOR) will be perceived by NCA as over-riding.</p>	
<p>Section III. General Comments</p>	<p>According to this section the undertaking is required to perform the assessment of its overall solvency needs. We believe that the phrase "overall solvency needs" should be precisely defined to avoid the potential risk of misinterpretation.</p>	
<p>1.37</p>	<p>FLAOR is required to be based on Solvency II techniques which are currently not entirely defined (especially in the area of long term obligations). On the other hand FLAOR will be required to be used already in 2014 which means that the implementation must take place till the end of 2013. In our opinion the undertakings will have more or less 2-3 months for proper implementation of FLAOR after the announcement of Omnibus II which is obviously regarded as too short period.</p>	
<p>1.38</p>		
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<p>1.40</p>	<p>According to point 1.40 the NCAs are expected to ensure that the undertakings will "subject the identified material risks to a sufficiently wide range of stress test or scenario analyses". In our opinion the phrase "material risk" requires additional precise definition so the undertaking is aware which risk is required to be subject to stress tests. Moreover EIOPA should define the benchmark for the "material risk" (e.g. level of Own Funds, SCR etc.) based on which the undertaking will be able to decide whether the considered risk can be classified as material or not-material.</p> <p>Additionally in our opinion before the implementation phase the local NCA should define the stress tests as there is a risk that undertakings understanding of the phrase "wide range" will be different than the NCA understanding (e.g. the undertaking will perform 2 stress tests for defined risk while the NCA will require 4 stress tests).</p> <p>To sum it up in our opinion local NCA should clearly define its expectations regarding the stress</p>	

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	<p>tests. Based on the proposed timeline (introduction of local guidelines on 1st of January 2014) we would like to suggest dedicating the year 2014 to local pre-application discussions between NCA and undertakings which would lead to preparation of detailed and precise local implementation timeline covering both implementation deadlines and details regarding qualitative and quantitative FLAOR requirements. Based on our proposal we believe that the real implementation process should take place in 2015 and as a result the first FLAOR reporting should be performed in 2016.</p>	
1.41	<p>According to point 1.41 the undertaking is required to assess its overall solvency needs taking into consideration medium term and long term perspective. In our opinion the terms "medium term" and "long term" require precise definition to avoid potential risk of misunderstanding. Moreover the precise guideline on how to define appropriate time horizon is perceived by us as necessary.</p>	
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1.44	<p>Please refer to point 1.8.</p>	
1.45	<p>In our opinion before the implementation phase the local NCA should define the form of evidence which will prove "that the undertaking takes into account the results" of FLAOR in capital management, business planning and product development processes. Without proper definition of required evidence the FLAOR process cannot be appropriately set-up.</p>	
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<p>Section IV. General Comments</p>		
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Impact Assessment – General Coments		
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