



EIOPA-13/429
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**EIOPA Final Report
on Public Consultation No. 13/009
on the Proposal for Guidelines on
Forward Looking Assessment of Own
Risks
(based on the ORSA principles)
to EIOPA Insurance and Reinsurance
Stakeholders' Group (IRSG)**

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1. Scope

- 1.1. This Final Report sets out the feedback to the Consultation Paper (CP) No. 13/009, which provides an analysis of responses to the consultation to the comments made by the Insurance and Reinsurance Stakeholders Group (IRSG), describes any material changes to the CP (or confirms that there have been no material changes), and explains the reasons for this in the light of feedback received.
- 1.2. It includes a feedback statement with EIOPA's opinion on the main comments received during the Public Consultation and the revised Guidelines.

2. Purpose

- 2.1. EIOPA is issuing Guidelines addressed to National Competent Authorities (NCAs) on how they should prepare for the application of Solvency II. The Guidelines follow EIOPA's Opinion on interim measures regarding Solvency II published on the 20 December 2012¹ (hereafter 'the Opinion'), within which EIOPA:
- a) Set out its expectations that NCAs, by way of preparing for the new system, put in place, starting on 1 January 2014, important aspects of the prospective and risk based supervisory approach to be introduced by Solvency II.
 - b) Stressed the importance of a consistent and convergent approach with respect to these preparations, notwithstanding the current status of the negotiations on the Omnibus II Directive (OMDII) and the further delay to the application of Solvency II.
 - c) Committed to publish Guidelines addressed to NCAs on how they should meet the expectations described in the Opinion.
- 2.2. The measures set out in the Guidelines are preparatory for Solvency II. In order to ensure effective and meaningful preparation, there needs to be a defined and demonstrable progression towards it. This means that during the preparatory phase, NCAs are expected to ensure that undertakings take steps towards implementing the relevant aspects of the regulatory framework addressed by these Guidelines. In addition this would also ensure that when Solvency II is applicable in their jurisdiction undertakings are better prepared to fully comply with Solvency II. In turn, NCAs will be expected to take the appropriate steps to promote industry's preparation towards Solvency II and to review and evaluate the quality of the information provided to them.
- 2.3. The package in this Final Report reflects EIOPA's position on the comments received and includes:
- a) Feedback Statement;
 - b) Revised preparatory Guidelines;
 - c) Revised Explanatory Text; and
 - d) Appendixes:
 - Appendix I: Impact Assessment
 - Appendix II: Comments template of IRSG comments

¹ <https://eiopa.europa.eu/publications/eiopa-opinions/index.html>

3. Feedback Statement

I. Introduction

- 3.1. EIOPA would like to thank the IRSG for having provided comments on CP No. 13/009. These comments provided valuable suggestions for improving the requirements related to governance and helped to identify areas needing further clarification.
- 3.2. The amendments that have been made cover not only clarifications, including the acceptance of a number of rewording suggestions from respondents, but also some changes to the content of the Guidelines.
- 3.3. The feedback statement outlines the comments received from stakeholders and the IRSG to CP No. 13/009 and the EIOPA responses to those comments along with resulting changes made to the governance package.
- 3.4. For a complete overview of all comments, responses and resulting changes made please refer also to the comments template (Appendix 2: Resolution of comments).

II. Comments in general

- 3.5. Generally stakeholders supported a move towards a harmonised regime. Stakeholders also highlighted that a proliferation of national requirements should be avoided and a consistent approach adopted across all jurisdictions for the preparation of Solvency II was welcomed.
- 3.6. The following paragraphs address the main comments received and EIOPA's answer to those.
- 3.7. IRSG has raised similar comments during the consultation than other stakeholders. Therefore EIOPA would like to outline these general comments in this Report to the IRSG.

Principle based approach and proportionality principle

- 3.8. Stakeholders want to see a 'principles based' approach for the preparatory Guidelines. They believe that the Guidelines ought to be proportionate, focus on overall issues and should avoid granularity and not be lengthy.
- 3.9. The approach taken by EIOPA is that the Guidelines do not describe how the requirements are to be applied on a case by case basis, but that they try to be applicable to all possible examples.
- 3.10. EIOPA aims to ensure that the Guidelines are applied in a manner that is proportionate in the context of the preparatory phase, and allows for some flexibility in application of these Guidelines through provisions for 'phasing-in' (i.e. different expectations for 2014 and 2015) and for the use of thresholds. Since proportionality applies whenever there are different ways to achieve expected outcomes, the Guidelines per nature do not explicitly refer to the principle of proportionality at every opportunity but specific proportionality provisions are included such as materiality thresholds and new recitals in submission of information. As they are generally not setting

out how undertakings are supposed to comply with requirements, the Guidelines also do not and cannot give specific examples of what would be considered proportionate under certain circumstances.

- 3.11. EIOPA expects that NCAs ensure that the provisions described in the Opinion are applied 'in a manner which is proportionate to the nature, scale and complexity inherent in the business of the insurance and reinsurance undertaking'. The approach taken aims to ensure that this expectation can be met, and this is reflected in the drafting of the Guidelines in two principal ways:
- a) In most cases, the Guidelines are principle based or drafted with a view to the outcome and supervisory objective that should be met, taking into account the preparatory nature of Guidelines.
 - b) The scope and level of detail of the Guidelines reflects the fact that the Guidelines are issued in order to prepare for Solvency II and not for full Solvency II application from 1 January 2014. When implementing those Guidelines both NCAs and undertakings will be better prepared for Solvency II.

Purpose of the preparatory phase

- 3.12. Stakeholders questioned whether the purpose of the Guidelines was preparation or early implementation of Solvency II.
- 3.13. EIOPA would like to stress that the measures set out in the Guidelines are preparatory for Solvency II. However, to ensure effective and meaningful preparation, there needs to be a defined and demonstrable progression towards Solvency II by both supervisors and undertakings.
- 3.14. This means that during the preparatory phase, NCAs are expected to ensure that undertakings take active steps towards implementing the relevant aspects of the regulatory framework addressed in these Guidelines, so that when Solvency II is applicable, its requirements can be fully complied with. In turn, NCAs will be expected to take the necessary steps to enable them to review and evaluate the quality of the information provided to them, and to discuss with undertakings the progress being made.
- 3.15. The Guidelines are drafted using the formula "national competent authorities should ensure that" which supports this approach. In fact the Opinion stated that NCAs 'should put in place, starting on 1 January 2014, certain important aspects of the prospective and risk based supervisory approach to be introduced'. It is for NCAs to decide how to integrate the preparatory Guidelines into their regulatory or supervisory frameworks. It is important to emphasise the starting and the expected phasing-in approach here: NCAs and undertakings are expected to progress in their preparedness for Solvency II during the course of the preparatory phase.
- 3.16. Undertakings are expected to achieve the outcomes expected, taking into account the preparatory nature of the Guidelines. EIOPA expects that Guidelines are implemented by NCAs in a way that undertakings' Systems of Governance and processes for Forward Looking Assessment of Own Risks (FLAOR) as well as for Submission of Information are in place and

aligned with the requirements in the preparatory Guidelines. This should allow undertakings to perform the FLAOR during 2014 and 2015, as defined in the respective Guidelines and to submit the information within the framework defined in 2015.

Enforcement measures and supervisory actions

- 3.17. Stakeholders supported that the preparatory phase should enable NCA's to assess preparedness but that it should not lead to any enforcement measures, asking for this clarification to be explicitly dealt with in a Guideline rather than in the introductory text.
- 3.18. EIOPA clarifies that NCAs are expected to comply with the Guidelines by ensuring that undertakings meet the specified outcomes taking into consideration its preparatory nature.
- 3.19. EIOPA Guidelines do not give indications on enforcement measures in relation to the implementation by undertakings of the preparatory Guidelines or in the specific way of implementation itself.
- 3.20. The means by which each NCA incorporates EIOPA Guidelines into their supervisory or regulatory frameworks is left at their discretion and it is not an EIOPA competence. When considering the best appropriate way to incorporate EIOPA Guidelines NCAs may be affected by their competences and powers and specific tools used at national level to incorporate the Guidelines.
- 3.21. Regardless of how NCAs incorporate the Guidelines at national level, EIOPA expects as an active step a dialogue to take place between NCAs and undertakings during the preparatory phase in order to prepare for Solvency II.
- 3.22. The preparatory Guidelines in itself do not require supervisory actions, in particular regarding failures by undertakings to comply with Solvency II Pillar I requirement as a result of the information provided during the preparatory phase.
- 3.23. Nevertheless, the following two examples on supervisory action would be expected:
 - a) It is expected that undertakings take into consideration any information arising from the implementation of the system of governance or from the performance of the FLAOR in the performance of their business or future business planning. It is also expected that a dialogue between NCAs and undertakings would take place, when appropriate. Although the dialogue could take this arising information into consideration, the preparatory Guidelines do not require NCAs to require an increase of capital, if the received information suggests a failure with Solvency II Directive requirements.
 - b) When NCAs receive information on the calculation of the SCR and the determination of Own Funds it is expected that NCAs review the quality of the information received and that they may take supervisory actions if the quality of the information raises concerns.

But it is not expected from the preparatory Guidelines that NCAs would take any supervisory action if the Own Funds are lower than the SCR.

Status of Solvency II Directive and the Delegated Acts (Implementing measures and Technical Standards)

- 3.24. Stakeholders asked for clarifications about the interaction between the preparatory Guidelines and the overall Solvency II negotiation process. They also asked that the associated timing of submission of information and the link to pillar I ought to be spelled out in different scenarios if the Omnibus II Directive has not been agreed or has not progressed sufficiently by the end of 2013.
- 3.25. The Guidelines provide direct references to the corresponding provisions set out in Solvency II Directive. EIOPA acknowledges that certain parts of Solvency II Directive are to be revised by the OMDII and that delegated acts proposal have not yet been finalised by the European Commission yet.
- 3.26. These direct references to Solvency II are made using the expression "In accordance with..." indicating the legal basis of the topic, without prejudice to the current revision of Solvency II Directive by OMDII.
- 3.27. Although the comply-or-explain replies are provided to the preparatory Guidelines only, it is anticipated that during the preparatory phase NCAs and undertakings are preparing for the implementation of all areas covered by Solvency II Directive and not only those covered by the preparatory Guidelines.
- 3.28. EIOPA highlights that the current working assumption for the preparatory Guidelines is that Solvency II will be applicable from 1 January 2016. Under this assumption, starting the preparatory phase from 2015, as requested by some stakeholders, would be too late, especially for the System of Governance including the Forward Looking Assessment of Own Risks and reporting processes.
- 3.29. Final Solvency II Directive requirements will be determined by the OMDII, and the delegated acts. EIOPA is working under the assumption that these measures will be available in time for NCAs and undertakings to prepare for the submission of the forward looking assessment during 2014 and 2015 and the quantitative and qualitative information in 2015. In which case, at that stage, EIOPA would prepare technical specifications on Pillar I quantitative issues, including on the valuation of technical provisions, assets and liabilities other than technical provisions, the SCR and the Underlying Assumptions of the SCR formula and provide guidance on the assumptions underlying the calculation of the standard formula calculation, which reflect the decision on OMDII.
- 3.30. However, as this assumption is based on the current agenda of OMDII negotiations, for the submission of information and the report on the Forward Looking Assessment the submission dates will be reviewed at the end of 2013 based on the latest developments with regard to Omnibus II. A revision clause will be introduced in the Guidelines accordingly.

Minimum or maximum harmonisation

- 3.31. Stakeholders questioned the extent to which any Guidelines would be 'mandatory' or whether NCAs could go beyond them, i.e. whether 'minimum' or 'maximum' harmonisation is being sought. It is understood that NCAs could choose to go further than any Guidelines issued by EIOPA which, in the view of stakeholders, may not be desirable or practical.
- 3.32. In fact NCAs may have current legislation or regulation that already go beyond the provisions set by the Guidelines and may also do it in future, to the extent that it is consistent with Union law as Solvency II Directive entered into force on the 6 January 2010 (Article 311).

Status of the Explanatory Text

- 3.33. Stakeholders commented on the status of the Explanatory Text. Stakeholders pointed out that the Explanatory Text should not provide a further layer of requirements, as it was not subject to public consultation.
- 3.34. EIOPA would like to clarify that the Explanatory Text is not subject to the comply-or-explain obligation. The aim of the Explanatory Text is to provide illustrations on how Guidelines or certain parts of them can work in practice, adding cross references, concrete applications or examples without creating new obligations that should be complied with. Its content is intended to offer support to the users of the Guidelines and therefore it does not need to be publicly consulted.
- 3.35. In the Explanatory Text, examples of good practices are given, i.e. it shows in more detail on case by case basis examples on how proportionality can be applied, and it presents as well tables in order to help visualise certain structures on an exemplary basis.

Application by third countries

- 3.36. Stakeholder argued that it would be inappropriate any extra-territoriality to be applied on an interim basis. They believe that only EEA undertakings should be subjected, directly or indirectly, to requirements at this stage which require any degree of adaptation to the Solvency II regime.
- 3.37. EIOPA does not expect that supervisory authorities in third countries apply the preparatory Guidelines. The Guidelines are not subject to equivalence analysis nor do they pre-empt any decision taken in past or future by the European Commission regarding equivalence.
- 3.38. In the CP No. 13/010 and in the revised preparatory Guidelines it was clarified that "When the deduction and aggregation method is applied, insurance and reinsurance groups are allowed to use solvency capital requirements and eligible own funds of related third country undertakings calculated according to their local rules for the purposes of these Guidelines only, and without prejudice to any future European Commission equivalence determinations and any future decisions of group supervisors", meaning that all third countries would be considered equivalent during the preparatory phase regardless of any equivalence analysis conducted or applied for.

- 3.39. Notwithstanding this, with regard to pillar II requirements as the preparatory System of Governance and the Forward Looking Assessment of Own Risks EIOPA assumes that third country supervisors have similar parts of risk management in their national requirements, as the preparatory Guidelines where these follow international standards.
- 3.40. When referring to group structures or group level the preparatory Guidelines apply to EEA groups only. They do not apply to branches of third country (re)insurance companies set up in the EEA.

Comply-or-explain mechanism

- 3.41. Article 16 of the EIOPA Regulation sets out that NCAs have to report to EIOPA within 2 months from the publication of the Preparatory Guidelines whether they comply or intend to comply with each Guideline. In case NCAs do not comply with a guideline they need to provide an explanation about the reasons for non-compliance. Such obligation is set in Article 16 of the EIOPA Regulation.
- 3.42. The answers on comply-or-explain provided by NCAs will be made publicly available by EIOPA. In the cases of not compliance, the reasons will be kept confidential unless agreed otherwise by the Board of Supervisors.
- 3.43. The NCAs replies provided during the comply-or-explain will be updated later on after the submission of the progress report by NCAs to EIOPA.
- 3.44. 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.
- 3.45. If NCAs don't comply with the Guidelines then, by nature EIOPA expectations on NCAs actions need to be considered accordingly.

Progress report

- 3.46. The progress report is a tool to facilitate communication between EIOPA and the NCAs but it is not part of the requirements for preparation towards Solvency II.
- 3.47. NCAs are required to submit a progress report to EIOPA by the end of February during two years after the application of the Guidelines. The first NCA's progress reports should be submitted by 28 February 2015, based on the period from 1 January 2014 to 31 December 2014.
- 3.48. It is up to the NCAs to decide how the level of detail of the information given to EIOPA in the progress reports and how this information has to be gathered at national level.

III. Specific issues raised by respondents

Link to the agreement for OMDII

- 3.49. Respondents wonder what will happen if there is no agreement for OMDII in 2013 and ask EIOPA to provide clarification as to how further delays to the introduction of Solvency II would affect these Guidelines.
- 3.50. If the assumptions that 2013 will see an agreement on the OMDII and that Solvency II starts on 1 January 2016 should turn out not to be valid, this would not affect the performance of the assessment of the overall solvency needs as such and undertakings would still be expected to perform the assessment from 2014 onwards. The assessment of the overall solvency needs of an undertaking is seen as independent of the result of the discussions on OMDII. So the assessment can be carried out on a best effort basis from the year 2014 onwards.
- 3.51. Concerning the assessment of the continuous compliance with regulatory capital requirements and the requirements on technical provisions and the assessment of the significance of the deviation of an undertaking's or group's risk profile from the assumptions underlying the SCR calculation according to the standard formula EIOPA will provide technical specifications for these assessments. Under the assumption that the pillar I requirements are available in time for NCA's and undertaking, EIOPA will prepare in 2014 technical specifications on pillar I quantitative issues and provide guidance on the assumptions underlying the calculation of the standard formula calculation, which reflect the decision on OMDII. Consequently, and still under this assumption, the timelines for these assessments are deferred to 2015 once the technical specifications have been provided; please refer the section below on timing and application issues.
- 3.52. EIOPA will decide on those technical specifications and review the deadlines for the submission of information and the later assessments for the Forward Looking Assessment at the end of 2013 based on the latest developments. A revision clause will be introduced in the Guidelines accordingly. Please refer to the general comments above 'Status of Solvency II Directive and Delegated Acts (Implementing measures and Technical Standards)'.

Double burden during the preparatory phase

- 3.53. According to some stakeholders the preparatory Guidelines require undertakings to operate under dual regulatory requirements. This is seen as inefficient and overly burdensome in terms of efforts and resources needed.
- 3.54. The performance of the forward looking assessment of own risks does not result in a "parallel run" of two different regulatory regimes. However, the change to a materially different regulatory regime inevitably requires that undertakings already consider the coming changes in the last phase of the old regime. It is no longer possible to take decisions without taking into account the effect these will have under the new regime, which is especially true for the forward looking assessment. Even without a

“preparatory phase” undertakings would have to consider their solvency needs and new regulatory capital needs well before the start of Solvency II in order to allow for sufficient time to establish what changes are needed and plan how to best introduce the necessary measures. Uncertainty about the final outcome of the quantitative requirements does not justify postponing preparation for Solvency II. In addition please see in the general comments above the section on ‘Purpose of the preparatory phase’.

Internal model users

- 3.55. Stakeholders claim that it would be unduly burdensome and penalise undertakings and groups that are under the pre-application process for an internal model to require that they additionally perform the assessment on the basis of the standard formula. They argue that the extra time this would require is better used focussing on the preparedness of internal models. Another concern is that the standard formula should not be used as a benchmark for internal models either explicitly or implicitly.
- 3.56. Requiring additional consideration of the standard formula has nothing to do with an intention to benchmark the internal model. Proper preparation for Solvency II involves taking into account contingencies. Undertakings and groups which are under the pre-application process for an internal model cannot be sure that their internal model will meet all necessary requirements for supervisory approval by the time Solvency II starts. They have to consider what their regulatory capital requirements could amount to if they have to use the standard formula at first as well as the capital planning implications in such case.
- 3.57. It is not sufficient to make a qualitative assessment of the impact of the use of the standard formula. The undertaking is expected to fully understand the implications of the non-approval of the internal model in order to be able to establish a contingency plan.

Timing and application issues

- 3.58. There is a considerable degree of confusion among stakeholders with regard to the meaning of the performance of the assessment of the overall solvency needs “as of 2014”, with stakeholders asking whether this means that the assessment can be performed in 2015 based on end of 2014 data. Or as a second and third option that the assessment must be completed by 31 December 2013 or that the first assessment must have started as at a date no later than 2014.
- 3.59. In order to have a sufficient level of preparation, EIOPA considers it necessary that all undertakings perform the assessment of the overall solvency needs at least two times during the preparatory phase, once in 2014 and once in 2015. As a consequence, “from 2014 onwards” means that the first assessment of overall solvency needs, as part of the forward

looking assessment, is expected to be performed at any time during the year 2014.

- 3.60. Taken on board stakeholder comments EIOPA has decided that for undertakings within the market threshold the initial performance of the assessment of the continuing compliance with the capital requirements and the requirements on technical provisions, also as part of the forward looking assessment, has been deferred until 2015, once the technical specifications have been provided. This clarification also applies to the assessment of the significance of the deviation of assumptions underlying the SCR calculation for those undertakings within the threshold not involved in the pre-application process for internal models. Please see in addition the resolution given above in the section 'Link to the agreement for OMDII'.
- 3.61. Whilst the reference date for the forward looking assessment would under normal circumstances be the same as for a SCR calculation date, this does not necessarily have to be the SCR calculation for 31 December of a particular year but could be a SCR calculation at any time during that year. EIOPA would like to emphasise that it is for the undertaking to decide on the appropriate reference date for its FLAOR.

Forward looking assessment policy

- 3.62. Documentation during the preparatory phase is an issue of concern to some stakeholders who suggest that full documentation requirements should only apply after the start of Solvency II. One area where stakeholders want to see reduced expectations is with regard to the forward looking assessment policy.
- 3.63. The forward looking assessment policy sets out the roles and responsibilities of the undertaking's staff members involved in the forward looking assessment and how the assessment is to be performed. This is necessary to ensure that the forward looking assessment provides appropriate results and meets its core objectives. Accordingly, it is necessary for undertakings to develop a full policy during the preparatory phase. EIOPA is aware that the policy may be changed from one assessment to the next. This is not unusual for policies and no reason not to put a once completed policy in place. Policies are not stable over a long period of time and therefore necessarily subject to change. All policies need to be reviewed on a regular basis which implies that there may be changes.
- 3.64. EIOPA would like to emphasise that the policy on FLAOR may be part of the policy on risk management. If this is the case the parts or chapters on FLAOR need to be clearly identifiable. It is the undertaking's decision if and how those two policies are linked to each other.

Record of the Forward-looking Assessment

- 3.65. A number of stakeholders are of the opinion that during the preparatory phase NCAs should not expect undertakings to provide a full record of the forward-looking assessment. Stakeholders are claiming that is not appropriate to expect that all these provisions in terms of evidence and documentation are met during the preparatory phase.
- 3.66. EIOPA considers the record to be no less, but maybe even more important during preparation than after the start of Solvency II. Preparation requires that an undertaking prepares for all aspects of the requirements it has to comply with, including appropriate documentation. Hence, the undertaking is expected to make any effort to record the forward looking assessment of own risks (based on ORSA principles) in the appropriate way as it will be required to do under Solvency II.

Supervisory Report

- 3.67. Some respondents propose that the supervisory reporting on the forward looking assessment should only start in 2015, in line with the first time that information has to be submitted to NCAs during the preparatory phase. Stakeholders ask for additional time to implement the necessary processes. Another suggestion is that during the preparatory phase the internal report should always be accepted for reporting purposes to the NCA.
- 3.68. In addition stakeholders have a number of questions with regard to the two week's timeline after the conclusion of the assessment for submitting the report on the forward-looking assessment to the NCA concerned. It is suggested that the timeline is too ambitious for the preparatory phase and stakeholders ask what "conclusion of the assessment" means and whether there will be additional time after the internal report for preparing the supervisory report.
- 3.69. EIOPA believes that for the supervisory report on the forward looking assessment the challenge of preparation is not so much IT related as for example for the submission of information, but rather how to prepare the report as such. The format of the FLAOR report is up to the decision of the undertaking itself. Consequently, there is no reason to waive the requirement to submit a supervisory report on the first assessment of the overall solvency needs. EIOPA does however not expect that the first report will necessarily already be perfect. EIOPA anticipates that there will be improvements from one report to another until the undertaking finally settles on what is the most appropriate form of the report.
- 3.70. EIOPA expects undertakings during the preparatory phase to submit a report on the results and conclusion of the forward-looking assessment within two weeks of having finished the assessment. Meeting those deadlines is seen as part of the preparation. As explained in the Explanatory Text, in order for the assessment to be considered concluded the AMSB has to sign it off thus signifying what it accepts as the final

result of the assessment. This is the start of two weeks period to submit the supervisory report to the NCA concerned, as clarified in the Guidelines.

- 3.71. EIOPA is aware that undertakings will need time after the initial assessment to reach the final result of the assessment and that on occasion this may take a little longer if there are disagreements internally in the undertaking to be resolved. The undertaking is however not supposed to extend the time between assessment and sign-off beyond what is needed for the purpose of reaching a conclusion.
- 3.72. The timeline for the submission is two weeks to ensure that the NCA receives up-to-date information about the forward looking assessment. There is no extension of the timeline in the probably exceptional case where the undertaking does not or cannot use its internal report on the forward looking assessment for reporting to the NCA. I.e. undertakings may then have to prepare the supervisory report in parallel to the internal report to be able to meet the deadline.

Role of the AMSB

- 3.73. Concerning the active role that is required of the AMSB it is being claimed that EIOPA cannot reasonably expect that the AMSB would be able to steer the FLAOR and "challenge" the results as from day one. Stakeholders also suggest that it be made possible to delegate to committees of the AMSB or to senior management.
- 3.74. The forward-looking assessment of the own risks is the key element of the system of governance of an undertaking under a risk based approach. And as such the FLAOR might have major impact on the strategic decision-making. The importance of the forward looking assessment for the sound and prudent management of the undertaking, which is the responsibility of the AMSB, requires that the members of the AMSB are personally involved. It is not acceptable that the AMSB delegates the full responsibility for the forward looking assessment to committees of the AMSB or to senior management, the risk management function or another special committee. EIOPA is aware that it will be challenging for some AMSBs to fulfil the active role required of them. However EIOPA sees it as necessary for undertakings to make all efforts to develop a top-down approach starting in the preparatory phase and not postpone this until after the start of Solvency II.
- 3.75. EIOPA is aware that the active role of the AMSB requires a certain level of expertise. However, the necessary qualifications for providing for the sound and prudent management of the undertaking that all members of the AMSB are required to possess include that they individually possess sufficient understanding of the core business of the undertaking. This is contained in the forward looking assessment of own risks, i.e. what risks the undertaking is or could be exposed to and how its risk profile translates into regulatory capital requirements and overall solvency needs.

Approval of the assessment and information sharing

- 3.76. Stakeholders question the legal basis for the requirement of the AMSB to approve the assessment of the own risk and solvency assessment and to communicate to all relevant staff at least the results and conclusions regarding this assessment. Some ask for clarification whether the communication has to be performed by the AMSB personally.
- 3.77. As an integral part of the business strategy that needs to be taken into account on an ongoing basis in the strategic decisions of the undertaking, the forward looking assessment of own risks provides major input to the high level decisions of the undertaking. The AMSB has to take responsibility that this decision-making basis is sound and correctly reflects the risk profile and capital needs of the undertaking.
- 3.78. Undertakings are required to provide for a system of governance that includes an effective system for ensuring the transmission of information. Such general exchange of information is necessary so that all personnel of the undertaking concerned are in possession of the relevant information for the proper discharge of their responsibilities. As it also may contain potentially sensitive data about the undertaking it is for the AMSB to decide which parts of the information will be distributed to whom.

Valuation and recognition of the overall solvency needs

- 3.79. Guideline 11 on the valuation and recognition bases for the overall solvency needs is generally considered to be unsuitable for the preparatory phase by respondents who claim that this would already impose Solvency II Pillar I calculations on all undertakings. Instead and in the light of the proportionality principle undertakings should be allowed to use local recognition and valuation bases. The latter are also the basis for their regulatory requirements or any other risk measurement approaches which they consider to properly reflect the nature, scale, and complexity of their business.
- 3.80. The Guideline does not prohibit undertakings from using valuation and recognition bases that are different from the Solvency II bases, such as local recognition and valuation bases (or statutory accounting), in the assessment of their overall solvency needs. They cannot however simply do so because this is easier for them than relying on Solvency II bases. Instead EIOPA expects from undertakings, which have decided to use other bases, to show that this is the more appropriate approach for them during the preparatory phase.
- 3.81. EIOPA has amended the Guideline to clarify that the quantitative estimate of the impact of any different recognition and valuation bases on the overall solvency needs assessment is expected on a best effort basis during the preparatory phase.

3.82. Furthermore, to address stakeholders' concern, EIOPA decided that the requirement to quantitatively estimate the impact of the different recognition and valuation bases only have to be applied in 2015 once the technical specifications have been provided by EIOPA, so that undertakings can use those specifications to make this estimation.

Assessment of the overall solvency needs

3.83. Some stakeholders are of the opinion that it should be sufficient during the preparatory phase that undertakings develop necessary steps to prepare for this assessment instead of actually performing it as this is seen as requiring full compliance ahead of the implementation date of Solvency II. Others argue that undertakings should be given the year 2014 for preparing for the assessment and should only actually be required to perform it at the end of the preparatory phase.

3.84. EIOPA considers it essential for the preparedness of undertakings for Solvency II that all undertakings perform the overall solvency needs assessment from 2014 onwards. The concept of establishing how much capital it is appropriate for the undertaking to hold instead of simply relying on the regulatory capital requirements should be familiar to undertakings even though EIOPA acknowledges that the requirement for doing so is new. What is probably a novel experience and what undertakings need to prepare for through practice are the processes for governing the assessment. EIOPA also expects that it will take several years of performing annual assessments before the quality of the assessment has reached a level that is considered fully satisfactory from the point of view of the undertaking as well as the NCA. This is an area where gaining practical experience is called for and mere planning of processes and procedures does not ensure this necessary experience and therefore appropriate preparation.

Assessment of the continuous compliance with the capital requirements and the requirements on technical provisions

3.85. A majority of stakeholders considers this requirement to be critical since it calls for pillar I calculations and projections ahead of the implementation date of Solvency II. Some argue that EIOPA should wait for the political process on Pillar I elements to be finalised. Other object on the basis that it would subject undertakings to a second set of regulatory requirements which would be inefficient and costly for undertakings. Another view is that continuous compliance should not require a full calculation of the regulatory capital requirements over the business planning period but that estimations, taking into account material changes in risk profile, should be sufficient.

3.86. EIOPA expects all undertakings at least to prepare the necessary processes and procedures to be ready at the start of Solvency II for the assessment of the continuous compliance with the capital requirements and the

requirements on technical provisions. Those undertakings within the threshold should additionally perform this assessment already during the preparatory phase. The actual performance will intensify the learning process for the undertakings concerned and help to improve the quality of the assessment over time. EIOPA is aware that undertakings will need to gain experience with the assessment before it can be performed to a level that is appropriate to the importance of this assessment. Please refer to as well to the general comments made above in the section for the purpose of the preparatory phase.

- 3.87. During the preparatory period, undertakings have to be alert to the possibility that the assessment may not necessarily yield a positive result with regard to the continuous compliance with the capital requirements and the requirements on technical provisions.
- 3.88. On account of stakeholders' comments EIOPA has decided to postpone the actual performance of the assessment of the continuous compliance for undertakings within the threshold to 2015 after the publication of related technical specifications. Undertakings are asked to be aware from the beginning of the preparatory phase how their capital requirements will change with the introduction of Solvency II. EIOPA believes that it might take preparation and time for ensuring that undertakings are able to meet these new capital requirements from day one of Solvency II.
- 3.89. Proper preparation calls for preparing for the final requirements not for some "lighter version" of these. Therefore undertakings should make the effort of projecting regulatory capital requirements for several years as they will be required to do once Solvency II starts. The projection can be made on a best effort basis and needs to be proportionate to the undertaking's needs.

Assessment of the significance of the deviation of the risk profile

- 3.90. Stakeholders in general object to the requirement to perform that assessment of the significance of the deviation of their risk profile from the assumptions underlying the SCR calculation according to the standard formula (hereafter: underlying assumptions). They claim that this is very challenging and requires Pillar I calculations and that it would be difficult to perform the assessment as the relevant assumptions are not generally known to undertakings. The performance will create a considerable extra burden for the undertakings involved as stated by stakeholders.
- 3.91. On account of the stakeholder comments EIOPA has decided to postpone the performance of the assessment of the significance of the deviation of the risk profile for undertakings within the threshold to 2015, too, after the publication of technical specifications. EIOPA has already acknowledged that in order to facilitate these assessments undertakings will need to be provided with relevant information about the underlying assumptions, see EIOPA Final Report on Public Consultation No. 11/008 On the Proposal for Guidelines On Own Risk and Solvency Assessment from July 2012:

<https://eiopa.europa.eu/consultations/consultation-papers/2011-closed-consultations/november-2011/solvency-ii-consultation-paper-on-the-proposal-for-guidelines-on-own-risk-and-solvency-assessment/index.html>

EIOPA is currently working on a document that sets out these assumptions which will be published in relation to the technical specifications and therefore be ready for undertakings when the assessment needs to be performed during the preparatory phase (see also section above on timing and application issues).

- 3.92. EIOPA does not deny that performing the assessment will require considerable efforts from the undertakings concerned. However, it also carries benefits. As part of the preparation for Solvency II undertakings are expected to consider whether the standard formula appropriately reflects their risk profile and start to plan ahead if this should not be the case.
- 3.93. Referring to the Explanatory Text stakeholders request that EIOPA should introduce into the Guidelines the clarification that a qualitative assessment as a first step could be sufficient to perform the assessment if there is no indication that the deviation is significant.
- 3.94. EIOPA has redrafted Guideline 16 according to this request to reflect that quantification is not always necessary.

Group definition

- 3.95. Comments were raised by stakeholders on the exact scope of the group FLAOR and whether third country based groups are also required to perform FLAOR. It was perceived as unclear what definition of a group should be used.
- 3.96. Regarding the definition of the group, the definition used within Solvency II Directive needs to be used. The Guidelines are meant to serve a preparation towards Solvency II. In this context it is logical that also the group definition of Solvency II Directive should be used. The definition of a group in the Directive does not differ essentially from the definition that is commonly used under Solvency I. Nevertheless it may include an element of judgment of the Group supervisor (and of the group itself, too). It is also important to refer to the provision made in the preparatory Guidelines on submission of information for this issue.

Scope of group FLAOR

- 3.97. Some stakeholders asked for clarifications how the FLAOR should be performed for non EEA undertakings, third country branches and also Groups based in a non EEA country

- 3.98. Concerning the scope of the FLAOR at group level, Guideline 19 explicitly includes all the entities that are within the scope of group supervision, but does not limit the group to that scope. The scope can be extended depending on how the group views itself. On the other hand, the scope of the group FLAOR cannot be less than the scope of group supervision.
- 3.99. This means in particular that non EEA entities that are included in the group supervision of a group based in the European Economic Area (EEA) should be included in the group FLAOR assessment, even if these non EEA entities do not have to perform a FLAOR at individual level.
- 3.100. The FLAOR requirements applicable to groups in Solvency II Directive are limited to groups based in the European Union (EU). EIOPA does not expect that supervisory authorities in third countries apply the preparatory Guidelines. The preparatory Guidelines do not apply to branches set up in the EEA of third country (re)insurance companies. Please refer to the part of this Final Report on general comments.

Consistent implementation across the EEA

- 3.101. Comments were made regarding the consistent implementation of the FLAOR preparatory Guidelines across the EEA. It is criticised that differences in implementation by NCAs will cause an additional workload for groups.
- 3.102. EIOPA recognises that due to the comply-or-explain mechanism of the preparatory Guidelines differences may occur across the EEA. This is true for FLAOR on individual entity and on group level. The groups as a whole are required to perform the group FLAOR set out by the relevant NCA in that country in which the parent undertaking is licensed.

The role of the group AMSB in the single FLAOR

- 3.103. Stakeholders have identified a need for clarity on the role of the undertaking's AMSB at group level in the FLAOR for both a) the assessment made at individual level and b) in case a group wishes to apply for the use of a single FLAOR.
- 3.104. Taking into account the principles set out in Solvency II Directive, the AMSB of the individual undertaking in a group structure remains the main reference and thus responsibility for the individual FLAOR. The AMSB on the group level should not impair the responsibility on individual level.
- 3.105. In the case a group decides to apply for the use of a single group FLAOR documents, the AMSB of the individual undertaking (or sub-group i.e. on national level) has to assure that the risks related to the individual undertaking (or to the sub-group) is properly represented in the single FLAOR.

3.106. It is seen as very important, as requested by the preparatory Guidelines, that the interrelations and the responsibilities between AMSB for the group and the AMSB for the individual entity are clearly defined.

Assessment of the deviation of the risk profile from the assumptions underlying the SCR by groups with a (partial) internal model under pre-application

3.107. Stakeholders asked if groups applying for a (partial) internal model have to perform the assessment of the deviation of the risk profile from the assumptions underlying the SCR calculation even in those entities which are not included in the partial internal model.

3.108. EIOPA does not expect groups engaged in a pre-application process for a partial internal model for the calculation of the group SCR to perform the assessment of the deviation of the risk profile from the assumptions underlying the SCR calculation, in line with Guideline 16 in relation to Guideline 3, and taking into account as well the preparatory Guideline 24 for the group forward looking assessment. Nevertheless the related undertakings of such groups, when they would use the SF for the calculation of their individual SCR, are expected to perform this assessment on an individual entity level when applicable.

IV. Comments from Insurance and Reinsurance Stakeholders' Group (IRSG)

3.109. IRSG generally supports EIOPA's decision to provide preparatory Guidelines on the forward looking assessment of own risks (based on ORSA principles).

3.110. End of 2011 EIOPA publicly consulted a previous draft of these Guidelines with stakeholders including IRSG. The comments received from this consultation have been discussed within EIOPA and have changed the Guidelines where it was deemed appropriate, please see the Final Report of 2012:

<https://eiopa.europa.eu/consultations/consultation-papers/2011-closed-consultations/november-2011/solvency-ii-consultation-paper-on-the-proposal-for-guidelines-on-own-risk-and-solvency-assessment/index.html>

3.111. EIOPA would like to thank IRSG for the constructive and effective cooperation during the previous and the current public consultation.

3.112. Many issues, which IRSG raises in this public consultation in 2013, are already reflected upon in this Final Report. Please see the general comments and the specific comments above. EIOPA would especially like

to point out to those answers given under the sections 'purpose of the preparatory phase' and 'link to the agreement on OMD II'.

Assessment of the overall solvency needs

- 3.113. IRSG comments that there is little room for an "own risk and solvency assessment", meaning for economic capital reflecting how the company consider its risk exposure. The group criticizes that it will not help undertakings to draw management attention on the results of the FLAOR.
- 3.114. EIOPA would like to point out that the FLAOR (and later the ORSA under full applicable Solvency II) gives a lot of freedom to undertakings to decide on their FLAOR (respectively ORSA). This is especially true on the format and content of the internal report in order to fully reflect the undertaking's risk profile and its overall solvency needs.
- 3.115. Those two issues, risk profile and overall solvency needs, are key factors of (re)insurance business in EIOPA's opinion. And as such they deserve the attention of the AMSB regardless of the regulatory basis the undertaking is facing. With the preparatory Guidelines EIOPA aims to provide incentives to implement, run and report on a true process, which is internally trusted by the undertaking. For the assessments, EIOPA would like to encourage undertakings to choose methodologies reflecting their current internal management understanding of risk exposure and solvency position.

Involvement of sub-committees at the level of the AMSB

- 3.116. With relation to the proportionality principle, IRSG asks if it is possible for the AMSB to delegate to any sub-committee which could tackle relevant issues of the FLAOR. IRSG is of the opinion that the composition of this committee should be balanced in order to reflect the diversity of the AMSB.
- 3.117. EIOPA does not intend to give guidance to the AMSB how to fulfill its responsibility and duties. The involvement of any sub-committee does not take away the ultimate personal responsibility of all AMSB members for the FLAOR. A sub-committee can help to fulfill this responsibility but should not replace the AMSB's responsibilities.

Stress testing and documentation

- 3.118. IRSG feels that the specification of 'stress tests, sensitivity analyses and reverse stress tests' is too precise and more flexibility should be granted to the undertaking. On similar lines, IRSG suggests that full documentation of the record of each ORSA process should be required only when the process is fully implemented under Solvency II.

3.119. EIOPA is of the opinion that stress testing is an essential activity in determining solvency levels under various risk scenarios. Therefore EIOPA expects undertakings during the preparatory period to develop first processes and methodologies which will then allow them to carry out these tests. By extension, EIOPA believes that it is important that there is a full record and documentation surrounding the FLAOR in this preparatory period to prepare properly for Solvency II.

Communication to especially interested classes of stakeholders

3.120. IRSG would like to see the opportunity that the FLAOR report has to be communicated to specifically interested classes of stakeholders including workers' council or any equivalent body.

3.121. As stated in the Guidelines the undertaking has the obligation to inform relevant staff members inside their undertaking about the major outcomes of the FLAOR. EIOPA would like to emphasize again that it is the decision of the undertaking's AMSB with whom the information should be shared. This principle applies to information sharing internally within the undertaking as well as with external third parties.

3.122. EIOPA expects further clarification on the requirement to disclose the ORSA coming from the future Implementing Measures. For the preparatory phase EIOPA is therefore not of the opinion that the undertaking is expected to share its full internal FLAOR report in an overall general disclosure with all internal and external stakeholders if they do not wish to do so. The FLAOR may be a sensitive document for the management of business and should be treated as such during the preparatory phase.

3.123. Second, the aim of the FLAOR supervisory report as seen by EIOPA is to serve as an important tool to foster an efficient and effective dialogue between the undertaking and its supervisors. EIOPA strongly believes that such a dialogue based on trust would not develop if the FLAOR supervisory report would be made publicly available in large parts during the preparatory phase.

4. Revised Guidelines

Introduction

- 4.1. According to Article 16 of Regulation (EU) 1094/2010 of 24 November 2010 (hereafter, EIOPA Regulation)² EIOPA issues Guidelines addressed to National Competent Authorities (NCAs) on how to proceed in the preparatory phase leading up to the application of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II Directive)³.
- 4.2. These Guidelines are based on Article 41, Article 44, Article 45 and Article 246 of Solvency II Directive.
- 4.3. In the absence of preparatory Guidelines, European national competent authorities may see the need to develop national solutions in order to ensure sound risk sensitive supervision. Instead of reaching consistent and convergent supervision in the EU, different national solutions may emerge to the detriment of a good functioning internal market.
- 4.4. It is of key importance that there will be a consistent and convergent approach with respect to the preparation of Solvency II. These Guidelines should be seen as preparatory work for Solvency II by fostering preparation with respect to key areas of Solvency II in order to ensure proper management of undertakings and that supervisors have sufficient information at hand. These areas are the system of governance, including risk management system and a forward looking assessment of own risks (based on the Own Risk and Solvency Assessment principles, known as ORSA), pre-application for internal models, and submission of information to competent authorities.
- 4.5. Early preparation is key in order to ensure that when Solvency II is fully applicable undertakings and national competent authorities will be well prepared and able to apply the new system. For this, national competent authorities are expected to engage with undertakings in a close dialogue.
- 4.6. As part of the preparation for the implementation of Solvency II, national competent authorities should put in place from 1 January 2014 the Guidelines as set out in this document so that insurance and reinsurance undertakings take appropriate steps to full implementation of Solvency II.
- 4.7. National competent authorities should send to EIOPA, a progress report on the application of these Guidelines by the end of February following each relevant year, the first being by 28 February 2015 based on the period 1 January 2014 to 31 December 2014.

² OJ L 331, 15.12.2010, p. 48–83

³ OJ L 335, 17.12.2009, p.1-155

- 4.8. In the preparatory phase national competent authorities are expected to ensure that insurance and reinsurance undertakings take a forward looking view on the risks to which they are exposed similar to what they will have to do once Solvency II will apply. For this, it is expected that insurance and reinsurance undertakings actively prepare and begin the implementation of the forward looking assessment of own risks (based on the ORSA principles) according to Article 45 of Solvency II Directive.
- 4.9. Since the assessment of the overall solvency needs can be undertaken irrespective of what regulatory quantitative requirements are applicable, national competent authorities are expected to ensure that undertakings perform such an assessment starting from 2014.
- 4.10. The assessment of the continuous compliance with regulatory capital requirements and the requirements on technical provisions according to Article 45(1) (b) and the assessment of the significance of the deviation of the risk profile of an undertaking from the assumptions underlying the calculation of the SCR according to Article 45(1) (c) of Solvency II Directive have a strong connection to Solvency II quantitative requirements which are not yet applicable during the preparatory period.
- 4.11. As all the issues that would need to be covered by the assessment of the significance of their risk profile deviating from the assumptions underlying the SCR calculation are already addressed through the pre-application process for internal model users, national competent authorities are not expected to ensure that undertakings which are in the pre-application process perform such an assessment in their forward looking assessment of own risks.
- 4.12. The Guidelines focus on what is to be achieved by this assessment rather than on how it is to be performed. For example, since the assessment of overall solvency needs represents the undertaking's own view of its risk profile, and the capital and other means needed to address these risks, the undertaking should decide for itself how to perform this assessment given the nature, scale and complexity of the risks inherent in its business.
- 4.13. These preparatory Guidelines include a Guideline for a report on the forward looking assessment of own risks. This report is meant to provide necessary information to the supervisor on the assessment made.
- 4.14. EIOPA acknowledges and supports the developments and achievements on a global scale and national level outside the European Union with regard to setting standards for Own Risk and Solvency Assessments with a forward looking perspective. But EIOPA does not expect that supervisory authorities in third countries apply the preparatory Guidelines. The Guidelines are not subject to equivalence analysis nor do they pre-empt any decision taken in past or future by the European Commission regarding equivalence. When referring to group structures or group level

the preparatory Guidelines apply to EEA groups only, not to branches set up in the EEA of third country (re)insurance companies.

- 4.15. It is crucial that the administrative, management or supervisory body (AMSB) of the undertaking is aware of all material risks the undertaking faces, regardless of whether the risks are captured by the SCR calculation and whether they are quantifiable or not. It is also vital that the AMSB takes an active role in the forward looking assessment of own risks by directing the process and challenging the outcome.
- 4.16. In case a group wishes to apply for the use of a single group forward looking assessment of own risks document this requires a high level of consistency in processes across the group.
- 4.17. The Guidelines apply to both individual undertakings and at the level of the group. Additionally, the Guidelines address issues relevant to the group specificities of the forward looking assessment of own risks, in particular on account of specific risks to the group or risks that could be less relevant at individual level than at group level.
- 4.18. The relevant Guidelines for individual undertakings apply *mutatis mutandis* to the group forward looking assessment of own risks. Additionally, groups need to take into consideration the group specific Guidelines.
- 4.19. Internal models users which are in the pre-application process for internal models are expected to prepare for the use of the internal model in the assessment of their overall solvency needs. Therefore, for the purposes of performing this assessment during preparatory phase, internal models users which are in the pre-application phase should be allowed to use the internal model.
- 4.20. For the purpose of these Guidelines, the following definitions have been developed:
 - a) "forward looking assessment of own risks" which is used in the Guidelines: is meant to be identical to "forward looking assessment of own risks (based on ORSA principles)"
 - b) "group level": means a coherent economic entity (holistic view) comprising all entities in the group as referred to in the Guidelines on the system of governance;
 - c) "the responsible entity" which is used in the group specific Guidelines as the entity responsible for fulfilling the governance requirements at group level;
 - d) "group forward looking assessment of own risks": means the forward looking assessment of own risks undertaken at group level; and
 - e) "single forward looking assessment of own risks' document": means the single forward looking assessment of own risks undertaken at the level of the group and at the level of any subsidiary of the group on

the same reference date and period formalised in one document when supervisory agreement is given to do so.

4.21. The Guidelines shall apply from 1 January 2014.

Section I: General Provisions for preparatory Guidelines

Guideline 1 - General provisions for Guidelines

- 4.22. As part of the preparation for the implementation of Solvency II, national competent authorities should take the appropriate steps in order to put in place from 1 January 2014 the present Guidelines on the forward looking assessment of own risks (based on the ORSA principles).
- 4.23. National competent authorities should ensure that insurance and reinsurance undertakings and groups take the appropriate steps to
- a. establish a process to develop a forward looking assessment of own risks; and
 - b. compile qualitative information supporting the forward looking assessment of own risks that will allow national competent authorities to review and evaluate the quality of the process.

Guideline 2 - Progress report to EIOPA

- 4.24. National competent authorities should send to EIOPA, a progress report on the application of these Guidelines by the end of February following each relevant year, the first being by 28 February 2015 based on the period 1 January 2014 to 31 December 2014.

Guideline 3 - Applicability of the threshold for the forward looking assessment of own risks

- 4.25. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that all undertakings and groups falling under Solvency II Directive perform an assessment of their overall solvency needs, starting in 2014.
- 4.26. National competent authorities should require that undertakings representing at least 80% of the market share as defined in Guideline 5 to 7 in the "Guidelines on submission of information to national competent authorities" perform an assessment of whether the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements on the Solvency II technical provisions starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital requirements and on the calculation of technical provisions will be provided.
- 4.27. National competent authorities should require that groups submitting annual quantitative information as defined in Guideline 9 in the "Guidelines on submission of information to national competent authorities" perform an assessment of whether the group would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements on the Solvency II technical provisions starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital

requirements and on the calculation of technical provisions will be provided.

- 4.28. National competent authorities should allow that undertakings and groups which are in the pre-application process for an internal model make use of this model for the purpose of the assessments on regulatory capital requirements, provided that the undertakings and groups concerned also perform the assessment for preparing for the eventuality that the application to use the internal model under Solvency II would be rejected by the national competent authority.
- 4.29. Where an undertaking which is not in the pre-application process for an internal model falls within the threshold referred to in the paragraph 4.26 and a group falls within the threshold referred to in paragraph 4.27., for the calculation of the Solvency II regulatory capital requirements national competent authorities should require the undertaking or the group to perform an assessment of the significance of the deviation of its risk profile from the assumptions underlying the Solvency II Solvency Capital Requirement calculation, starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital requirements and on the calculation of technical provisions will be provided.

Section II: Forward Looking Assessment of Own Risks

Guideline 4 – Proportionality

- 4.30. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking develops for the forward looking assessment of own risks its own processes with appropriate and adequate techniques, tailored to fit into its organisational structure and risk-management system and taking into consideration the nature, scale and complexity of the risks inherent to the business.

Guideline 5 – Role of the administrative, management or supervisory body: top-down approach

- 4.31. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the administrative, management or supervisory body of the undertaking takes an active part in the forward looking assessment of own risks, including steering, how the assessment is to be performed and challenging the results.

Guideline 6 – Documentation

- 4.32. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking has at least the following documentation on the forward looking assessment of own risks:
- a) The policy for the forward looking assessment of own risks;
 - b) record of each forward looking assessment of own risks;

- c) an internal report on each forward looking assessment of own risks;
and
- d) a supervisory report of the forward looking assessment of own risks.

Guideline 7 – Policy for the forward looking assessment of own risks (based on the ORSA principles)

4.33. In accordance with Articles 41 and 45 of Solvency II Directive, national competent authorities should ensure that the administrative, management or supervisory body of the undertaking approves the policy for the forward looking assessment of own risks. This policy should include at least:

- a) a description of the processes and procedures in place to conduct the forward looking assessment of own risks;
- b) a consideration of the link between the risk profile, the approved risk tolerance limits and the overall solvency needs; and
- c) information on:
 - (i) how and how often stress tests, sensitivity analyses, reverse stress tests or other relevant analyses are to be performed;
 - (ii) data quality standards; and
 - (iii) the frequency of the assessment itself and the justification of its adequacy particularly taking into account the undertaking's risk profile and the volatility of its overall solvency needs relative to its capital position; and
 - (iv) the timing for the performance of the forward looking assessment of own risks and the circumstances which would trigger the need for a forward looking assessment of own risks outside of the regular time-scales.

Guideline 8 – Record of each forward looking assessment of own risks (based on the ORSA principles)

4.34. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking appropriately evidences and internally documents each forward looking assessment of own risks and its outcome.

Guideline 9 – Internal report on the forward looking assessment of own risks (based on the ORSA principles)

4.35. In accordance with Article 41, 44 and 45 of Solvency II Directive, national competent authorities should ensure that the undertaking communicates to all relevant staff at least the results and conclusions regarding the forward looking assessment of own risks, once the process and the results have been approved by the AMSB.

Guideline 10 – Supervisory Report of the forward looking assessment of own risks (based on the ORSA principles)

4.36. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking submits the supervisory report of the forward looking assessment of own risks within 2 weeks of the AMSB having reviewed and approved the assessments. The supervisory report should present at least the following:

- a) the qualitative and quantitative results of the forward looking assessment and the conclusions drawn by the undertaking from those results;
- b) the methods and main assumptions used; and
- c) where applicable according to the thresholds introduced, a comparison between the overall solvency needs, the regulatory capital requirements and the undertaking's own funds.

Section III: Specific features regarding the performance of the forward looking assessment of own risks (based on the ORSA principles)

Guideline 11 – Valuation and recognition of the overall solvency needs

4.37. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking, if it uses recognition and valuation bases that are different from the Solvency II bases in the assessment of its overall solvency needs, explains how the use of such different recognition and valuation bases ensures better consideration of the specific risk profile, approved risk tolerance limits and business strategy of the undertaking, while complying with the requirement for a sound and prudent management of the business.

4.38. National competent authorities should ensure that the undertaking quantitatively estimates on best effort basis the impact on the overall solvency needs assessment of the different recognition and valuation bases in those cases where recognition and valuation bases that are different from the Solvency II bases have been used in the assessment of its overall solvency needs starting in 2015 under the condition that the technical specifications have been provided by EIOPA.

Guideline 12 – Assessment of the overall solvency needs

4.39. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking assesses its overall solvency needs and then expresses the overall solvency needs in quantitative terms and complements the quantification by a qualitative description of the material risks.

4.40. Where appropriate, national competent authorities should ensure that the undertaking subjects the identified material risks to a sufficiently wide

range of stress test or scenario analyses in order to provide an adequate basis for the assessment of the overall solvency needs.

Guideline 13 – Forward-looking perspective of the overall solvency needs

4.41. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking's assessment of the overall solvency needs is forward-looking, including a medium term or long term perspective as appropriate.

Guideline 14 – Regulatory capital requirements

4.42. In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that as part of this assessment the undertaking analyses whether the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and includes at least:

- a) the potential future material changes in the risk profile;
- b) the quantity and quality of its own funds over the whole of its business planning period; and
- c) the composition of own funds across tiers and how this composition may change as a result of redemption, repayment and maturity dates during its business planning period.

Guideline 15 – Technical provisions

4.43. In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that the undertakings ensures the actuarial function of the undertaking to:

- a) provide input as to whether the undertaking would comply continuously with the requirements regarding the calculation of technical provisions; and
- b) identify potential risks arising from the uncertainties connected to this calculation.

Guideline 16 – Deviations from assumptions underlying the SCR calculation

4.44. In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that the undertaking assesses whether its risk profile deviates from the assumptions underlying the Solvency II Solvency Capital Requirement calculation and whether these deviations are significant. The undertaking

may as a first step perform a qualitative analysis and if that indicates that the deviation is not significant, a quantitative assessment is not required.

Guideline 17 – Link to the strategic management process and decision-making framework

4.45. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking takes into account the results of the forward looking assessment of own risks and the insights gained during the process of this assessment in at least:

- a) its capital management;
- b) its business planning; and
- c) its product development and design.

Guideline 18 – Frequency

4.46. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the undertaking performs the forward looking assessment of own risks at least annually.

Section IV: Specificities of the Group in the forward looking assessment of own risks (based on the ORSA principles)

Guideline 19 – Scope of group forward looking assessment of own risks (based on the ORSA principles)

4.47. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity designs the group forward looking assessment of own risks to reflect the nature of the group structure and its risk profile. All of the entities that fall within the scope of group supervision should be included within the scope of the group forward looking assessment of own risks. This should include insurance, reinsurance, non-insurance and non-reinsurance undertakings, and both regulated and non-regulated entities, situated in the EEA and outside the EEA.

Guideline 20 – Reporting to the supervisory authorities

4.48. In accordance with Articles 45 and 246 of Solvency II Directive and in case the responsible entity applies for the submission of a single forward looking assessment of own risks' document:

- a) The group supervisor should form a view whether to allow the group to perform a single forward looking assessment of own risks document, if there is no other decision process in force in the college, and if no member that would otherwise receive an individual forward looking assessment of own risks document disagrees; and
- b) where one or more of the subsidiaries has its head office in a Member State whose official languages are different from the languages in

which the single forward looking assessment of own risks document is reported, the supervisory authority concerned should consult with the group supervisor, the college of supervisors and the group itself before requiring the undertaking to translate the part of the forward looking assessment of own risks document that concerns the subsidiary into an official language of the Member State in which the subsidiary has its head office.

Guideline 21 – Assessment of the impact of group specific risks on overall solvency needs

4.49. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity in the group forward looking assessment of own risks adequately assesses the impact of all group specific risks and interdependencies within the group as well as, and the impact of these risks and interdependencies on the overall solvency needs, taking into consideration the specificities of the group and the fact that some risks may be scaled up at the level of the group.

Guideline 22 – General rule for group forward looking assessment of own risks (based on the ORSA principles)

4.50. In accordance with Articles 45 and 246 of Solvency II Directive and in accordance with Guideline 8 on the record of each forward looking assessment of own risks, national competent authorities should ensure that the responsible entity includes in the record of the group forward looking assessment of own risks at least a description on how the following factors were taken into consideration for the assessment of overall solvency needs and the assessment of continuous compliance with regulatory requirements⁴:

- a) The identification of the sources of own funds within the group and if there is a need for additional own funds;
- b) the assessment of availability, transferability or fungibility of own funds;
- c) references to any planned transfer of own funds within the group, which would have a material impact on any entity of the group, and its consequences;
- d) alignment of individual strategies with the ones established at the level of the group; and
- e) specific risks the group could be exposed to.

Guideline 23 – Specific requirements for a single forward looking assessment of own risks' document

⁴ The assessment of the continuous compliance is expected from those groups within in the threshold.

4.51. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity, when applying to submit a single forward looking assessment of own risks' document, provides an explanation of how the subsidiaries are covered and how the AMSBs of the subsidiaries are involved in the assessment process and approval of the outcome.

Guideline 24 – Internal model users

4.52. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that, in the case of an internal model pre-application, the responsible entity describes in the group forward looking assessment of own risks which entities within the group do not use the internal model to calculate their SCR and explain why this is the case.

Guideline 25 – Integration of related third-country insurance and re-insurance undertakings

4.53. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity assesses in the assessment of the group overall solvency needs the risks of the business in third countries in a consistent manner as it does for EEA-business with special attention to the assessment of transferability and fungibility of capital.

Compliance and Reporting Rules

4.54. This document contains Guidelines issued under Article 16 of the EIOPA Regulation. In accordance with Article 16(3) of the EIOPA Regulation, Competent Authorities shall make every effort to comply with guidelines and recommendations.

4.55. Competent authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or supervisory framework in an appropriate manner.

4.56. Competent authorities shall confirm to EIOPA whether they comply or intend to comply with these Guidelines, with reasons for non-compliance, within 2 months after the publication.

4.57. In the absence of a response by this deadline, competent authorities will be considered as non-compliant to the reporting.

Final Provision on Review

4.58. These Guidelines shall be subject to a review by EIOPA.

4.59. In particular, the year of 2015 referred to in Guideline 3 may be revised based on the latest developments on the OMDII negotiations.

5. Revised Explanatory Text

Section I: General Provisions

Guideline 1 – General provisions for Guidelines

As part of the preparation for the implementation of Solvency II, national competent authorities should take the appropriate steps in order to put in place from 1 January 2014 the present Guidelines on the forward looking assessment of own risks (based on the ORSA principles).

National competent authorities should ensure that insurance and reinsurance undertakings and groups take the appropriate steps to

- a. establish a process to develop a forward looking assessment of own risks; and**
- b. compile qualitative information supporting the forward looking assessment of own risks that will allow national competent authorities to review and evaluate the quality of the process.**

Guideline 2 – Progress report to EIOPA

National competent authorities should send to EIOPA, a progress report on the application of these Guidelines by the end of February following each relevant year, the first being by 28 February 2015 based on the period 1 January 2014 to 31 December 2014.

Guideline 3 – Applicability of the threshold for the forward looking assessment of own risks

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that all undertakings and groups falling under Solvency II Directive perform an assessment of their overall solvency needs, starting in 2014.

National competent authorities should require that undertakings representing at least 80% of the market share as defined in Guideline 5 to 7 in the “Guidelines on submission of information to national competent authorities” perform an assessment of whether the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements on the Solvency

II technical provisions starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital requirements and on the calculation of technical provisions will be provided.

National competent authorities should require that groups submitting annual quantitative information as defined in Guideline 9 in the “Guidelines on submission of information to national competent authorities” perform an assessment of whether the group would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements on the Solvency II technical provisions starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital requirements and on the calculation of technical provisions will be provided.

National competent authorities should allow that undertakings and groups which are in the pre-application process for an internal model make use of this model for the purpose of the assessments on regulatory capital requirements , provided that the undertakings and groups concerned also perform the assessment for preparing for the eventuality that the application to use the internal model under Solvency II would be rejected by the national competent authority.

Where an undertaking which is not in the pre-application process for an internal model falls within the threshold referred to in the paragraph 1.26 and a group falls within the threshold referred to in paragraph 1.27., for the calculation of the Solvency II regulatory capital requirements national competent authorities should require the undertaking or the group to perform an assessment of the significance of the deviation of its risk profile from the assumptions underlying the Solvency II Solvency Capital Requirement calculation, starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital requirements and on the calculation of technical provisions will be provided.

Section II: General considerations

- 5.1. Article 45 of Solvency II requires the undertaking to perform a regular forward looking assessment of the undertaking’s own risks as part of the risk-management system. The main purpose of the forward looking assessment of the undertaking’s own risks is to ensure that the undertaking engages in the process of assessing all the risks inherent to its business and determines the corresponding capital needs. To achieve this, an undertaking needs adequate and robust processes to assess, monitor and measure its risks and overall solvency needs, and also to ensure that the output from the assessment forms an important part of

the decision making processes of the undertaking. Conducting an assessment of the overall solvency needs properly involves input from across the whole undertaking. The forward looking assessment of the undertaking's own risks is not complied with by producing only a report or by filling templates.

- 5.2. The design of the overall solvency needs assessment reflects the way the undertaking proposes to manage the risks that it faces through capital needs or other risk mitigation techniques. This takes into consideration the risk profile, the approved risk tolerance limits and the business strategy. The determination of the overall solvency needs is expected to contribute to assessments of whether to retain or transfer risks, of how best to optimise the undertaking's capital management and of how to establish the appropriate premium levels. It is also expected to provide input into other strategic decisions.
- 5.3. An undertaking cannot simply rely on the regulatory capital requirements to be adequate for its business and risk profile. An essential part of risk management is the undertaking performing its own assessment of the own funds (including amount, quality, etc.) it needs to hold in view of the particular risk exposure and business objectives. Since the risks the undertaking is exposed to translate into solvency needs, looking at risk and capital management separately is not appropriate.
- 5.4. As the overall solvency needs assessment is the undertaking's own analysis, undertakings have flexibility in this assessment. However, supervisory expectations are more specific with regard to the continuous compliance with the regulatory capital and technical provisions and the assessment of any deviation between the undertaking's risk profile and the assumptions underlying the SCR calculation. Accordingly, an undertaking during the preparatory period has to take into account the technical specifications for the calculation of the regulatory capital requirements and the technical provisions to be provided.
- 5.5. During the preparatory period until the full implementation of Solvency II, the forward looking assessment of the undertaking's own risks will also allow the undertaking to determine the adequacy of its regulatory capital position. The undertaking is required to ensure that it can meet the regulatory capital requirements in the form of the minimum capital requirement (MCR) and the solvency capital requirement (SCR) once Solvency II quantitative requirements are to be applied. During the preparatory period the undertaking has to assess whether it will be able to meet the future capital requirements through the forward looking assessment of the undertaking's own risks.

- 5.6. The undertaking is also expected to consider whether the SCR, calculated with the standard formula or an internal model, would be appropriate according to the undertaking's risk profile.
- 5.7. The forward looking assessment of the undertaking's own risks may call for the performance of tasks that the undertaking has already performed in a different context in which case no duplication of tasks is required but the result reached is to be taken into account in the forward looking assessment of the undertaking's own risks.

Guideline 4 – Proportionality

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking develops for the forward looking assessment of own risks its own processes with appropriate and adequate techniques, tailored to fit into its organisational structure and risk-management system and taking into consideration the nature, scale and complexity of the risks inherent to the business.

- 5.8. An undertaking's assessment of its overall solvency needs does not necessarily call for the use of a complex approach. The methods employed may range from simple stress tests to more or less sophisticated economic capital models. Where such economic capital models are being used, they do not need to meet the requirements for the use of internal models for the calculation of the SCR in accordance with Articles 112 to 126.
- 5.9. Proportionality is to be reflected not only in the level of complexity of the methods used but also in the frequency of the performance of the forward looking assessment of the undertaking's own risks assessment by the undertaking and in the level of granularity of the different analyses to be included in the forward looking assessment of the undertaking's own risks.

Guideline 5 – Role of the administrative, management or supervisory body: top-down approach

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the administrative, management or supervisory body of the undertaking takes an active part in the forward looking assessment of own risks, including steering, how the assessment is to be performed and challenging the

results.

- 5.10. The forward looking assessment of the undertaking's own risks is a very important tool for the AMSB of the undertaking providing it with a comprehensive picture of the risks the undertaking is exposed to or could face in the future. It has to enable the AMSB to understand these risks and how they translate into capital needs or alternatively require risk mitigation techniques.
- 5.11. The AMSB challenges the identification and assessment of risks, and any factors to be taken into account. It also gives instructions on management actions to be taken if certain risks were to materialise.
- 5.12. As part of the forward looking assessment of the undertaking's own risks the AMSB challenges the assumptions behind the calculation of the SCR to ensure they are appropriate in view of the assessment of the undertaking's risks.
- 5.13. Taking into account the insights gained from the forward looking assessment of the undertaking's own risks, the AMSB approves the long and short term capital planning, whilst considering the business and risk strategies it has decided upon for the undertaking. This plan includes alternatives to ensure that capital requirements can be met even under unexpectedly adverse circumstances.

Guideline 6 – Documentation

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking has at least the following documentation on the forward looking assessment of own risks:

- a) The policy for the forward looking assessment of own risks;**
- b) record of each forward looking assessment of own risks;**
- c) an internal report on each forward looking assessment of own risks; and**
- d) a supervisory report of the forward looking assessment of own risks.**

- 5.14. Documenting information does not necessarily require that new or fully separate reports or documents are drafted; it can be sufficient to refer to existing documents where these contain the relevant information and just

record additional information if and insofar as this is necessary to present the full picture.

Guideline 7 – Policy for the forward looking assessment of own risks (based on the ORSA principles)

In accordance with Articles 41 and 45 of Solvency II Directive, national competent authorities should ensure that the administrative, management or supervisory body of the undertaking approves the policy for the forward looking assessment of own risks. This policy should include at least:

- a) a description of the processes and procedures in place to conduct the forward looking assessment of own risks;**
- b) a consideration of the link between the risk profile, the approved risk tolerance limits and the overall solvency needs; and**
- c) information on:**
 - (i) how and how often stress tests, sensitivity analyses, reverse stress tests or other relevant analyses are to be performed;**
 - (ii) data quality standards; and**
 - (iii) the frequency of the assessment itself and the justification of its adequacy particularly taking into account the undertaking's risk profile and the volatility of its overall solvency needs relative to its capital position; and**
 - (iv) the timing for the performance of the forward looking assessment of own risks and the circumstances which would trigger the need for a forward looking assessment of own risks outside of the regular time-scales.**

5.15. The AMSB ensures that the forward looking assessment of the undertaking's own risks is appropriately designed and implemented.

5.16. According to Article 41(3) undertakings are required to have a written policy on risk management. As risk management includes the forward looking assessment of the undertaking's own risks, undertakings have to develop a policy for forward looking assessment of the undertaking's own risks.

Guideline 8 – Record of each forward looking assessment of own risks

(based on the ORSA principles)

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking appropriately evidences and internally documents each forward looking assessment of own risks and its outcome.

- 5.17. The undertaking records the performance of each forward looking assessment of the undertaking's own risks and the assessment of any deviations in its risk profile from the assumptions underlying the SCR calculation to a level of detail that enables a third party to evaluate the assessments.
- 5.18. The record of each forward looking assessment of the undertaking's own risks is therefore expected to include:
- a) The individual risk analysis, including a description and explanation of the risks considered;
 - b) The links between the risk assessment and the capital allocation process and an explanation of how the approved risk tolerance limits were taken into account;
 - c) An explanation of how risks not covered with own funds are managed;
 - d) A technical specification of the approach used for the forward looking assessment of the undertaking's own risks assessment, including a detailed description of the key structure, together with a list and justification of the assumptions underlying the approach used, the process used for setting dependencies, if any, and the rationale for the confidence level chosen, if any, a description of stress tests and scenario analyses employed and the way their results were taken into account, and an explanation of how parameter and data uncertainty were assessed;
 - e) An amount or range of values for the overall solvency needs over a one-year-period, as well as for a longer period and a description of how the undertaking expects to address the needs;
 - f) Action plans arising from the assessment and the rationales for them. This requires the documentation to cover any strategies for raising additional own funds where necessary and the proposed timing for actions to improve the undertaking's financial condition;

- g) Details on the conclusions and the rationale for them from the assessment of the continuous compliance with the requirements of regulatory capital and technical provisions;
- h) For undertakings that would use an internal model to calculate the SCR, a description of the changes made to the internal model under pre-application process during this process if any;
- i) The identification and explanation of the differences between the undertaking's risk profile and the assumptions underlying the calculation of the SCR. Where the deviations are considered to be significant resulting in either an under or an overestimation of the SCR, the internal documentation addresses how the undertaking has reacted or will react;
- j) A description of what internal and external factors were taken into consideration in the forward-looking perspective;
- k) Details of any planned relevant management actions, including an explanation and a justification for these actions, and their impact on the assessment; and
- l) A record of the challenge process performed by the AMSB.

Guideline 9 – Internal report on the forward looking assessment of own risks (based on the ORSA principles)

In accordance with Article 41, 44 and 45 of Solvency II Directive, national competent authorities should ensure that the undertaking communicates to all relevant staff at least the results and conclusions regarding the forward looking assessment of own risks, once the process and the results have been approved by the AMSB.

- 5.19. The information communicated to the AMSB has to be sufficiently detailed to enable it to use it in its strategic decision-making process and the information communicated to relevant staff has to be sufficiently detailed to enable those staff to take any necessary follow-up actions.
- 5.20. The internal report developed by the undertaking could be the basis of the supervisory report of forward looking assessment of the undertaking's own risks. If the undertaking considers that the internal report has an appropriate level of detail also for supervisory purposes then the same report may be submitted to the national supervisory authority.

Guideline 10 – Supervisory Report of the forward looking assessment of own risks (based on the ORSA principles)

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking submits the supervisory report of the forward looking assessment of own risks within 2 weeks of the AMSB having reviewed and approved the assessments. The supervisory report should present at least the following:

- a) the qualitative and quantitative results of the forward looking assessment and the conclusions drawn by the undertaking from those results;**
- b) the methods and main assumptions used; and**
- c) where applicable according to the thresholds introduced, a comparison between the overall solvency needs, the regulatory capital requirements and the undertaking's own funds.**

- 5.21. The undertaking is expected to submit the outcome of the forward looking assessment of the undertaking's own risks to the supervisory authority within two weeks after the AMSB has reviewed and approved the outcome of the forward looking assessment of the undertaking's own risks.
- 5.22. The assessment of the overall solvency needs includes the quantification for different risk categories or, where appropriate, risks, as well as a quantification of the overall solvency needs for a one-year and a medium term horizon. For the assessment of the continuous compliance the quantification for example covers expected future SCR, MCR and own funds levels. And for the assessment of the significance of the deviation of the risk profile the report needs to comprise the quantification of any significant deviation.
- 5.23. Qualitative information on the forward looking assessment of the undertaking's own risks includes for instance the description of the risks the undertaking is or could be exposed to, explanations why certain risks were considered to be material or not, management actions or risk mitigation taken into account, proposed risk management measures for risks not to be covered by capital, weaknesses or problems identified, scenarios that the undertaking is sensitive to, the result of internal stress tests and the strategic decisions considered through the forward looking assessment of the undertaking's own risks.

- 5.24. Conclusions of the undertaking about the forward looking assessment of the undertaking's own risks include what the undertaking plans to do on account of the findings during the forward looking assessment of the undertaking's own risks and the timelines for proposed actions. It may also involve explaining why the undertaking concludes that no actions are required if it is not unreasonable to expect that something may have to be done about certain findings.
- 5.25. When setting out its main assumptions the undertaking not only needs to address internal and external factors it has taken into account as affecting its overall solvency needs and regulatory capital requirements and how and why it did so but also to explain for example why it deems the deviation of its profile from the assumptions underlying the SCR calculation to be non-significant
- 5.26. For the comparison of the undertaking's own funds with its overall solvency needs the undertaking may consider other elements than those accepted as available own funds according to Solvency II principles as own funds. In this case an explanation why the undertaking deems this to be justified is expected to be included in the report.

Section III: Specific features regarding the performance of the forward looking assessment of the undertaking's own risks

Guideline 11 – Valuation and recognition of the overall solvency needs

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking, if it uses recognition and valuation bases that are different from the Solvency II bases in the assessment of its overall solvency needs, explains how the use of such different recognition and valuation bases ensures better consideration of the specific risk profile, approved risk tolerance limits and business strategy of the undertaking, while complying with the requirement for a sound and prudent management of the business.

National competent authorities should ensure that the undertaking quantitatively estimates on best effort basis the impact on the overall solvency needs assessment of the different recognition and valuation bases in those cases where recognition and valuation bases that are different from the Solvency II bases have been used in the assessment of its overall solvency needs starting in 2015 under the condition that the technical specifications have been provided by EIOPA.

- 5.27. The quantitative estimate of the impact includes all balance sheet effects. The diversification effects between risks (correlations) are also considered in this assessment. In this the undertaking is not bound to

use the correlations included in the standard formula, but may employ others considered to be more suitable to its specific business and its risk profile.

Guideline 12 – Assessment of the overall solvency needs

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking assesses its overall solvency needs and then expresses the overall solvency needs in quantitative terms and complements the quantification by a qualitative description of the material risks.

Where appropriate, national competent authorities should ensure that the undertaking subjects the identified material risks to a sufficiently wide range of stress test or scenario analyses in order to provide an adequate basis for the assessment of the overall solvency needs.

- 5.28. In its assessment of the overall solvency needs an undertaking could decide not to use capital as a buffer for all its quantifiable risks but to manage and mitigate those risks by other means. The assessment covers all material risks, including non-quantifiable risks like reputational risk or strategic risk, amongst others. The assessment could take several forms. It could be pure quantification based on quantitative methodologies or an estimated value or range of values which are based on particular assumptions or scenarios, or it could be more or less judgemental. It is, however, required that the undertaking demonstrates the rationale for the assessment.
- 5.29. When an insurance undertaking belongs to a group, its forward looking assessment of the undertaking's own risks has to consider all group risks that may impact materially the individual entity.
- 5.30. As the risk profile is influenced by the risk mitigation techniques used by the undertaking, the assessment of the impact and the effectiveness of reinsurance and other risk mitigation techniques plays a role in the forward looking assessment of the undertaking's own risks. Where there is no effective risk transfer this has to be taken into account in the assessment of the overall solvency needs.
- 5.31. After identifying all the risks it is exposed to, the undertaking takes a decision on whether they will be covered with capital or managed with risk mitigation tools or both.
- 5.32. If the risks are to be covered by capital, there is a need to estimate the risks and identify the level of materiality. For material risks, the

undertaking has to determine the capital required and explain how they will be managed.

- 5.33. If the risks are managed with risk mitigation techniques, the undertaking explains which risks are going to be managed by which technique and the underlying reasons.
- 5.34. The assessment needs to cover whether the undertaking currently has sufficient financial resources and realistic plans for how to raise additional capital if and when required, for example on account of the business strategy or business plan. In assessing the sufficiency of its financial resources the undertaking has to take into account the quality and volatility of its own funds with particular regard to their loss-absorbing capacity under different scenarios.
- 5.35. Conducting an assessment of the overall solvency needs properly involves input from across the whole undertaking. One difference from the SCR calculation is that for the overall solvency needs assessment the undertaking considers all material risks, including long term risks, it could face within the timeframe in the medium term or ,where relevant, in the long term. Although the SCR only takes quantifiable risks into account, the undertaking is expected to identify and assess the extent to which non-quantifiable risks are part of its risk profile and to ensure that they are properly managed.
- 5.36. The assessment of the overall solvency needs is expected to at least:
 - a) Reflect the material risks arising from all assets and liabilities, including intra-group and off-balance sheet arrangements;
 - b) Reflect the undertaking's management practices, systems and controls including the use of risk mitigation techniques;
 - c) Assess the quality of processes and inputs, in particular the adequacy of the undertaking's system of governance, taking into consideration risks that may arise from inadequacies or deficiencies;
 - d) Connect business planning to solvency needs;
 - e) Include explicit identification of possible future scenarios;
 - f) Address potential external stress; and
 - g) Use a valuation basis that is consistent throughout the overall solvency needs assessment.
- 5.37. When assessing the overall solvency needs, an undertaking also takes into account management actions that may be adopted in adverse

circumstances. When relying on such prospective management actions, an undertaking assesses the implications of taking these actions, including their financial effect, and takes into consideration any preconditions that might affect the efficacy of the management actions as risk mitigators. The assessment also addresses how any management actions would be enacted in times of financial stress.

- 5.38. As internal model users would be required to develop and carry out, on a regular basis, their own stress tests and scenario analyses as part of the complying with the validation standards set out in Article 124 of Solvency II, they may need to develop further stresses and scenarios for the forward looking assessment of the undertaking's own risks. The process for setting the stress and scenarios should be consistent with internal model requirements.
- 5.39. Where the undertaking uses the standard formula as a baseline for its assessment of its overall solvency needs, it is expected to demonstrate that this is appropriate to the risks inherent in its business and reflects its risk profile.
- 5.40. In the case of internal model users, the explanations and justifications that would be required for the use of an internal model can be used, if appropriate in the context of the forward looking assessment of the undertaking's own risks. Nevertheless specific explanations need to cover the use of a different recognition or valuation basis in the forward looking assessment of the undertaking's own risks to that used in the internal model to calculate the SCR.

Guideline 13 – Forward-looking perspective of the overall solvency needs

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking's assessment of the overall solvency needs is forward-looking, including a medium term or long term perspective as appropriate.

- 5.41. The analysis of the undertaking's ability to continue as a going concern and the financial resources needed to do so over a time horizon of more than one year is an important part of the forward looking assessment of the undertaking's own risks.
- 5.42. Unless an undertaking is in a winding-up situation, it has to consider how it can ensure that it can continue as a going concern. In order to do this successfully, it does not only have to assess its current risks but also the risks it will or could face in the long term. That means that, depending on

the complexity of the undertaking's business, it may be appropriate to perform long term projections of the business, which are in any case a key part of any undertaking's financial planning. This might include business plans and projections of the economic balance sheet as well as variation analysis to reconcile these two items. These projections are required to feed into the forward looking assessment of the undertaking's own risks in order to enable the undertaking to form an opinion on its overall solvency needs and own funds in a forward looking perspective.

- 5.43. The undertaking needs to project its capital needs at least over its business planning period, taking into account medium and long term risk, as appropriate. This projection is to be made taking into consideration any likely changes to the risk profile and business strategy over the projection period and the sensitivity of the assumptions used.
- 5.44. The length of the business planning period may differ between undertakings. However, if the undertaking generates a new business plan or revises an existing business plan, these changes need to be reflected in the forward looking assessment of the undertaking's own risks taking into account the new risk profile, the business volume and the business mix that is expected. In order to provide a proper basis for decision-making and to identify material risks and the consequences for the overall solvency needs by changes to the business plan, a range of possible scenarios have to be tested.
- 5.45. An undertaking also identifies and takes into account external factors that could have an adverse impact on its overall solvency needs or on its own funds. Such external factors could include changes in the economic conditions, the legal framework, the fiscal environment, the insurance market, technical developments that have an impact on underwriting risk, or any other probable relevant event. The undertaking will need to consider as part of its capital management plans and capital projections how it might respond to unexpected changes in external factors.

Guideline 14 – Regulatory capital requirements

In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that as part of this assessment the undertaking analyses whether the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and includes at least:

- a) the potential future material changes in the risk profile;**

b) the quantity and quality of its own funds over the whole of its business planning period; and

c) the composition of own funds across tiers and how this composition may change as a result of redemption, repayment and maturity dates during its business planning period.

- 5.46. For the assessment of the compliance on a continuous basis with the regulatory capital and technical provisions requirements, the recognition and valuation bases have to be in line with the relevant principles provided by Solvency II.
- 5.47. Changes in an undertaking's risk profile may affect the future MCR and SCR calculations and this needs to be taken into consideration in the capital management process.
- 5.48. The assessment also needs to consider the changes to the own funds position that might occur in stressed situations. The undertaking is expected to carry out stress tests and scenario analyses to assess the resilience of the business.
- 5.49. Capital planning includes projections of capital requirements and own funds over the planning period (and may include the need to raise new own funds). It is up to each undertaking to decide for itself the reasonable methods, assumptions, parameters, dependencies or levels of confidence to be used in the projections.
- 5.50. As part of the business and capital planning processes, an undertaking will need to regularly carry out stress tests, reverse stress-tests, as well as scenario analyses to feed into its forward looking assessment of the undertaking's own risks. The stress testing scope and frequency has to be proportionate.
- 5.51. When considering the quantity, quality and composition of its own funds, the undertaking has to consider the following: the mix between basic own funds and ancillary own funds, and also between tiers, the relative quality of the own funds and their loss absorbing capacity.
- 5.52. When considering future own fund requirements the undertaking has to consider:
- a) Capital management including at least issuance, redemption or repayment of capital instruments, dividends and other distributions of income or capital, and calls on ancillary own fund items. This has to

include both projected changes and contingency plans in the result of a stressed situation;

- b) The interaction between the capital management and its risk profile and its expected and stressed evolution;
- c) If required, its ability to raise own funds of an appropriate quality and in an appropriate timescale. This has to have regard to: its access to capital markets; the state of the markets; its dependence on a particular investor base, investors or other members of its group; and the impact of other undertakings seeking to raise own funds at the same time; and
- d) How the average duration of own fund items (contractual, maturity or call dates), relates to the average duration of its insurance liabilities and future own funds needs.

5.53. The undertaking also assesses and identifies relevant compensating measures and offsetting actions it could realistically take to restore or improve capital adequacy or its cash flow position after some future stress events.

Guideline 15 – Technical provisions

In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that the undertakings ensures the actuarial function of the undertaking to:

- a) provide input as to whether the undertaking would comply continuously with the requirements regarding the calculation of technical provisions; and**
- b) identify potential risks arising from the uncertainties connected to this calculation.**

5.54. Assessing whether the requirements relating to technical provisions are being complied with continuously requires processes and procedures relating to a regular review of the calculation of the technical provisions to be in place.

5.55. The input regarding the compliance with requirements and the risks arising from the calculation of technical provisions has to be in line with the information contained in the annual report of the actuarial function.

Guideline 16 – Deviations from assumptions underlying the SCR calculation

In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that the undertaking assesses whether its risk profile deviates from the assumptions underlying the Solvency II Solvency Capital Requirement calculation and whether these deviations are significant. The undertaking may as a first step perform a qualitative analysis and if that indicates that the deviation is not significant, a quantitative assessment is not required.

- 5.56. The assessment of the significance with which the risk profile of the undertaking deviates from the assumptions underlying the SCR calculation ensures that the undertaking understands the assumptions underlying its SCR calculation and considers whether those assumptions are appropriate. To do this, the undertaking will have to compare those assumptions with its own understanding of its risk profile. This process needs to prevent an undertaking from simply relying upon regulatory capital requirements as being adequate for its business.
- 5.57. In order to help standard formula users in the assessment, information on the assumptions on which the SCR calculation is based will be made available to undertakings.
- 5.58. The undertaking has to assess the significance of deviations of its specific risk profile from the relevant assumptions underlying the (sub) modules of the SCR calculation the correlations between the (sub) modules and the building blocks of the (sub) modules.
- 5.59. Due consideration needs to be given to the following differences between the undertaking's risk profile and the assumptions underlying the SCR calculation: differences due to risks that are not considered in the standard formula and differences due to risks that are either under or overestimated by the standard formula compared to the risk profile. The assessment process is expected to include:
- a) An analysis of the risk profile and an assessment of the reasons why the standard formula is appropriate, including a ranking of risks;
 - b) An analysis of the sensitivity of the standard formula to changes in the risk profile, including the influence of reinsurance arrangements, diversification effects and the effects of other risk mitigation techniques;

- c) An assessment of the sensitivities of the SCR to the main parameters, including undertaking-specific parameters;
- d) An elaboration on the appropriateness of the parameters of the standard formula or of undertaking-specific parameters;
- e) An explanation why the nature, scale and complexity of the risks justify any simplifications used; and
- f) An analysis of how the results of the standard formula are used in the decision making process.

5.60. If the outcome of this qualitative and quantitative assessment is that there are significant deviations between the risk profile of the undertaking and the SCR calculation, the undertaking would be expected to consider during the preparatory period how this could be addressed. It could decide to align its risk profile with the standard formula, to apply for undertaking-specific parameters, where this is allowed, or to develop a (partial) internal model. Alternatively, the undertaking could decide to de-risk.

5.61. It is unlikely that the undertaking can determine whether the risk profile deviates significantly from the assumptions underlying the SCR by comparing the amount of the overall solvency needs as identified through the forward looking assessment of the undertaking's own risks with the SCR. Since overall solvency needs and SCR can be calculated on different bases and may include different items, the amounts produced will not be readily comparable. There are a number of reasons that could account for the differences that have nothing to do with deviations of the risk profile, such as:

- a) The undertaking may operate at a different confidence level or risk measure for business purposes compared to the assumptions on which the SCR calculation is based. For instance, it may choose to hold own funds for rating purposes, which represents a higher confidence level than that used to calibrate the SCR.
- b) The undertaking may use a time horizon for its business planning purposes that differs from the time horizon underlying the SCR.
- c) In the forward looking assessment of the undertaking's own risks the undertaking may consider any agreed management actions that could influence the risk profile.

Internal model users

5.62. During the pre-application process the undertaking prepares to ensure that the internal model plays an important role in the forward looking assessment of the undertaking's own risks as set out in Article 120 of Solvency II.

Internal model users – Overall Solvency Needs

5.63. According to Article 120 of Solvency II, as part of the use test, internal models would need to play an important role in the forward looking assessment of the undertaking's own risks. This does not necessarily mean that the assessment of the overall solvency needs would be accomplished solely by running the internal model. In this context, the forward looking assessment of the undertaking's own risks includes the assessment of:

- a) the impact of the excluded material risks or major lines of business would have on the solvency position in the case of partial internal model;
- b) the interrelationship between risks which are in and outside the scope of the model; and
- c) the identification of risks other than those covered by the internal model, which may trigger a change to the internal model.

Guideline 17 – Link to the strategic management process and decision-making framework

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking takes into account the results of the forward looking assessment of own risks and the insights gained during the process of this assessment in at least:

- a) its capital management;**
- b) its business planning; and**
- c) its product development and design.**

5.64. In deciding on the business strategy, the undertaking has to take into account the output from the forward looking assessment of the undertaking's own risks.

5.65. As an integral part of the business strategy, an undertaking needs to have in place its own strategies for managing its overall solvency needs and regulatory capital requirements and integrating this with the

management of all material risks to which it is exposed. Hence the forward looking assessment of the undertaking's own risks feeds into the management of the business, in particular into the strategic decisions, operational and management processes.

- 5.66. The forward looking assessment of the undertaking's own risks is required to reflect the business strategy. Hence, when performing the forward looking assessment of the undertaking's own risks the undertaking takes into account the business strategy and any strategic decisions influencing the risk situation and regulatory capital requirement as well as overall solvency needs. On the other hand, the AMSB needs to be aware of the implications that strategic decisions have on the risk profile and regulatory capital requirements and overall solvency needs of the undertaking and to consider whether these effects are desirable, affordable and feasible given the quantity and quality of its own funds. Any strategic or other major decisions that may materially affect the risk or own funds' position of the undertaking need to be considered through the forward looking assessment of the undertaking's own risks before such a decision is taken. This does not necessarily imply a full performance of the forward looking assessment of the undertaking's own risks: the undertaking considers how the output of the last assessment of the overall solvency needs would change if certain decisions were taken and how these decisions would affect the regulatory capital requirements.
- 5.67. Where the undertaking is relying on management processes, in particular systems and controls, in order to mitigate risks, it considers the effectiveness of those systems and controls in a stress situation.

Guideline 18 – Frequency

In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the undertaking performs the forward looking assessment of own risks at least annually.

- 5.68. The forward looking assessment of the undertaking's own risks has to be performed on a regular basis and in any case immediately after any significant change in the risk profile of the undertaking.
- 5.69. The undertaking decides when to perform the regular forward looking assessment of the undertaking's own risks which, as a rule, needs to use the same reference date as the SCR calculation but different reference dates could be acceptable if there has been no material change in the risk profile between them.

- 5.70. The forward looking assessment of the undertaking's own risks performed after any significant change of the risk profile is called a non-regular forward looking assessment of the undertaking's own risks. In this regard undertakings are expected to use their experience from stress tests and scenario analyses to determine whether changes in external factors could impact the undertaking's risk profile significantly.
- 5.71. Such changes may follow from internal decisions and external factors. Examples are: the start-up of new lines of business; major amendments to approved risk tolerance limits or reinsurance arrangements, internal model changes, portfolio transfers or major changes to the mix of assets.

Section IV: Specificities of the group forward looking assessment of the undertaking's own risks (based on the ORSA principles)

Guideline 19 – Scope of group forward looking assessment of own risks (based on the ORSA principles)

In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity designs the group forward looking assessment of own risks to reflect the nature of the group structure and its risk profile. All of the entities that fall within the scope of group supervision should be included within the scope of the group forward looking assessment of own risks. This should include insurance, reinsurance, non-insurance and non-reinsurance undertakings, and both regulated and non-regulated entities, situated in the EEA and outside the EEA.

- 5.72. The group forward looking assessment of the undertaking's own risks adequately captures all specificities of the group, including at least:
- a) risks specific to the group for example stemming from non-regulated entities, interdependencies within the group and their impact on the group's risk profile;
 - b) risks that might not be taken into account at individual level, but that have to be taken into consideration at group level for example contagion risks;
 - c) any differences between undertakings of the group, such as business strategy, business planning period and risk profile;
 - d) national specificities, their effects and how they are reflected at the group level.

- 5.73. The participating insurance or reinsurance undertaking or insurance holding company responsible for the group forward looking assessment of the undertaking's own risks needs to ensure that all necessary information to carry out the group forward looking assessment of the undertaking's own risks and that the results are reliable.

(Re)insurance undertakings

- 5.74. The reference to (re)insurance undertakings covers all entities taking-up insurance or reinsurance activities including captive (re)insurance undertakings.

Third-country entities

- 5.75. Although third-country undertakings are not required to produce a solo forward looking assessment of the undertaking's own risks, they have to be included in the group forward looking assessment of the undertaking's own risks if they fall within the scope of group supervision.
- 5.76. Groups need to take account of any restrictions or challenges to the assessment at group level that may arise from third-country undertakings. For example, this might include any impediments to accessing information and restrictions on the timeliness of information to be provided by the undertakings.

Regulated non-(re)insurance undertakings

- 5.77. The group forward looking assessment of the undertaking's own risks assesses all material risks arising from regulated non-insurance or reinsurance entities within the group, since these entities contribute to the group solvency in proportion to the share held by the participating undertaking in accordance with Article 221.

Non-regulated entities

- 5.78. While non-regulated entities are not subject to solo supervision and are not expected to perform a forward looking assessment of the undertaking's own risks at the individual level, they have to be included in the scope of group forward looking assessment of the undertaking's own risks, if they fall within the scope of group supervision.
- 5.79. The nature of the assessment with respect to non-regulated entities will depend on the nature, size and complexity of each non-regulated entity and its role within the group. Some non-regulated entities may play a very important role in setting the strategy and hence in defining the risk profile at the group level that is implemented throughout the group. On the other hand, non-regulated entities, such as insurance holding

companies, may be just instruments that are used for a particular for example to acquire holdings in subsidiaries as set out in Article 212(1)(f) of Solvency II and have no influence in setting the business strategy. The group forward looking assessment of the undertaking's own risks will have to be sufficiently dynamic to capture the different nature of the material risks from all non-regulated entities within the scope of the group.

Guideline 20 – Reporting to the supervisory authorities

In accordance with Articles 45 and 246 of Solvency II Directive and in case the responsible entity applies for the submission of a single forward looking assessment of own risks' document:

- a) The group supervisor should form a view whether to allow the group to perform a single forward looking assessment of own risks document, if there is no other decision process in force in the college, and if no member that would otherwise receive an individual forward looking assessment of own risks document disagrees; and**
- b) where one or more of the subsidiaries has its head office in a Member State whose official languages are different from the languages in which the single forward looking assessment of own risks document is reported, the supervisory authority concerned should consult with the group supervisor, the college of supervisors and the group itself before requiring the undertaking to translate the part of the forward looking assessment of own risks document that concerns the subsidiary into an official language of the Member State in which the subsidiary has its head office.**

5.80. The following table summarises the reporting requirements linked to the group forward looking assessment of the undertaking's own risks:

		Article 254(2), Article 35(2) (a)(i) and draft Article 294 SRS1	Article 254(2) and Article 35(2) (a)(ii)
Group forward looking assessment of	Participating undertaking	Group forward looking assessment of the undertaking's own	Group forward looking assessment of the

<p>the undertaking's own risks</p> <p>(not including the assessment at individual level of the subsidiaries)</p>		<p>risks supervisory report reported to the group supervisor</p>	<p>undertaking's own risks supervisory report reported to the group supervisor whenever a forward looking assessment of the undertaking's own risks is performed</p>
<p>Individual forward looking assessment of the undertaking's own risks (at subsidiaries' individual level)</p>	<p>Subsidiary</p>	<p>Solo supervisory report includes cross references to the group forward looking assessment of the undertaking's own risks (supervisory report)</p>	<p>Solo supervisory report includes cross references to the group forward looking assessment of the undertaking's own risks (supervisory report).</p>
<p>Single forward looking assessment of the undertaking's own risks document covering all the assessments (article 246(4) 3rd subparagraph option)</p>	<p>Participating undertaking</p>	<p>Single supervisory report of forward looking assessment of the undertaking's own risks submitted to all supervisory authorities concerned whenever a regular forward looking assessment of the undertaking's own risks is performed</p>	<p>Single supervisory report of forward looking assessment of the undertaking's own risks submitted to all supervisory authorities concerned whenever a non-regular forward looking assessment of the undertaking's own risks is performed</p>

5.81. It is not necessary that all individual undertakings within the group are in the scope of the single forward looking assessment of the undertaking's

own risks document. However, if the group applies for a single forward looking assessment of the undertaking's own risks document all relevant members in the college given the scope of the application should be involved in the decision as set out in the guideline.

5.82. After a demand to perform a single forward looking assessment of the undertaking's own risks document from the group, if there is no other decision process in force in the college, and if any member that would otherwise receive an individual forward looking assessment of the undertaking's own risks document disagrees, the group supervisor could authorize the group to perform a single forward looking assessment of the undertaking's own risks document excluding those undertakings above mentioned which should present its own individual forward looking assessment to the respective national supervisor.

5.83. Specifically, the following two situations could arise:

a) The participating undertaking does not apply for a single forward looking assessment of the undertaking's own risks document. In this case, the participating insurance or reinsurance undertaking or the insurance holding company performs the forward looking assessment of the undertaking's own risks at the level of the group and the individual undertaking performs its individual forward looking assessment of the undertaking's own risks.

b) The participating insurance or reinsurance undertaking or the insurance holding company opts for a single document for forward looking assessment of the undertaking's own risks. In this case a single supervisory report has to be provided. Nevertheless, compliance with Article 45 of Solvency II needs to be ensured by the subsidiaries concerned. It is required that the document has to be submitted to all supervisory authorities concerned. This applies to the regular report of the forward looking assessment of the undertaking's own risks and to reports following predefined events.

5.84. The main findings regarding the forward looking assessment of the undertaking's own risks will be discussed in the College of Supervisors.

Guideline 21 – Assessment of the impact of group specific risks on overall solvency needs

In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity in the group forward looking assessment of own risks adequately assesses the impact of all group specific risks and interdependencies within the group as well as, and the impact of these

risks and interdependencies on the overall solvency needs, taking into consideration the specificities of the group and the fact that some risks may be scaled up at the level of the group.

- 5.85. The group forward looking assessment of the undertaking's own risks identifies the impact on the group solvency and related undertakings arising from all material risks that the group is facing. In addition to the risks considered in the SCR calculation, all material risks including group specific risks, and particularly risks that are not quantifiable, have to be taken into consideration.
- 5.86. The group forward looking assessment of the undertaking's own risks describes the interrelationships between the risks of the participating insurance or reinsurance undertaking or the insurance holding company and of the individual undertakings.
- 5.87. The group forward looking assessment of the undertaking's own risks also assesses the materiality of risks that arise at the level of the group and are specific for groups and thus cannot be identified at the individual level. Hence, those group specific risks are not taken into account in the consolidation or aggregation process depending on the calculation method used.
- 5.88. The group specific risks include for example:
- a) contagion risk, for example spill-over effect of risks that have manifested in other parts of the group;
 - b) risks arising from intra-group transactions and risk concentration, notably in relation to:
 - (i) participations;
 - (ii) intra-group reinsurance or internal reinsurance;
 - (iii) intra-group loans;
 - (iv) intra-group outsourcing;
 - c) operational risks arising from the complexity of the group structure; and
 - d) risks arising from the complexity of the group structure.
- 5.89. In addition to the information required in [1.23 Guideline 7] at the group level, the group forward looking assessment of the undertaking's own risks document includes:

- a) a description of the materiality of each related entity at the group level, particularly the contribution of each related entity to the overall group risk profile;
- b) the outcome of the comparison between the group overall solvency needs and the sum of the solo overall solvency needs; and
- c) the assessment of any diversification effects assumed at the group level.

5.90. A group specific component of the group forward looking assessment of the undertaking's own risks is the analysis of diversification effects assumed at group level. This includes the analysis of the reasonableness of the diversification effects assumed at the group level compared to the risk profile of the group and the overall solvency needs of the group.

Guideline 22 – General rule for group forward looking assessment of own risks (based on the ORSA principles)

In accordance with Articles 45 and 246 of Solvency II Directive and in accordance with Guideline 8 on the record of each forward looking assessment of own risks, national competent authorities should ensure that the responsible entity includes in the record of the group forward looking assessment of own risks at least a description on how the following factors were taken into consideration for the assessment of overall solvency needs and the assessment of continuous compliance with regulatory requirements⁵:

- a) The identification of the sources of own funds within the group and if there is a need for additional own funds;**
- b) the assessment of availability, transferability or fungibility of own funds;**
- c) references to any planned transfer of own funds within the group, which would have a material impact on any entity of the group, and its consequences;**
- d) alignment of individual strategies with the ones established at the level of the group; and**
- e) specific risks the group could be exposed to.**

⁵ The assessment of the continuous compliance is expected from those groups within in the threshold.

5.91. From a quantitative perspective, it is expected that the group forward looking assessment of the undertaking's own risks policy outlines different stress tests and scenario analyses.

Guideline 23 – Specific requirements for a single forward looking assessment of own risks' document

In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity, when applying to submit a single forward looking assessment of own risks' document, provides an explanation of how the subsidiaries are covered and how the AMSBs of the subsidiaries are involved in the assessment process and approval of the outcome.

5.92. The single forward looking assessment of the undertaking's own risks document needs to reflect the nature, scale and complexity of the group and the risks within it. The single document focuses on the material parts of the group, but according to Article 246(4) of Solvency II it does not exempt subsidiaries from the obligations relating to the forward looking assessment of the undertaking's own risks at individual level. This means that the single document for forward looking assessment of the undertaking's own risks also has to document the assessments undertaken by insurance and reinsurance subsidiary undertakings at the individual level according to Article 45 of Solvency II.

5.93. If a group plans to submit a single group report for the forward looking assessment of the undertaking's own risks , the AMSB of the entity responsible for fulfilling the group requirements needs to take into consideration the following criteria when assessing the appropriateness of submitting a single group document:

- a) the results of each subsidiary concerned are individually identifiable in the structure foreseen for the single document for forward looking assessment of the undertaking's own risks to enable a proper supervisory review process to be carried out at the individual level by the individual supervisors concerned;
- b) the single report of the forward looking assessment of the undertaking's own risks satisfies the requirements of both the group supervisor as well as the individual supervisors concerned.

Guideline 24 – Internal model users

In accordance with Articles 45 and 246 of Solvency II Directive,

national competent authorities should ensure that, in the case of an internal model pre-application, the responsible entity describes in the group forward looking assessment of own risks which entities within the group do not use the internal model to calculate their SCR and explain why this is the case.

Guideline 25 – Integration of related third-country insurance and re-insurance undertakings

In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity assesses in the assessment of the group overall solvency needs the risks of the business in third countries in a consistent manner as it does for EEA-business with special attention to the assessment of transferability and fungibility of capital.

5.94. The business of these third-country undertakings is assessed taking into account the following:

- a) Both where the solvency regime of a third country has been deemed to be equivalent to the one set by Solvency II and where it has not , the group should carry out the assessment of the overall solvency needs set out in Article 45(1)(a) in the same manner as for EEA undertakings. The integration of the risks of third-country undertakings with the risks of EEA undertakings in the group should guarantee that similar risks are homogeneously assessed from an economic point of view;
- b) Both where the solvency regime of a third country has been deemed to be equivalent to in the one set by Solvency II and where it has not , the group needs to assess particularly the transferability and fungibility of the third-country undertaking own funds. The assessment explicitly identifies the regulation of the third country that may hinder or impede the full fungibility and transferability of the own funds of the subsidiaries of such third country towards any other undertaking of the group;
- c) If a third-country entity is included in the group solvency assessment using local rules and the deduction and aggregation method (in case of equivalence), the assessment of the significance with which the risk profile of the subsidiary of that third country deviates from the assumptions underlying the solvency capital requirement, as set out in Article 45(1)(c) of Solvency II, shall refer to the capital requirements as laid down in the regulations of that third country. This assessment has to be carried out both at a holistic level and at a

more granular level, for which the group assesses the specific deviations of each material element of the calculation of the capital requirement.

- 5.95. The group forward looking assessment of the undertaking's own risks includes a separate and adequate disclosure of any material information concerning third-country undertakings.

6. Appendixes:

Appendix 1: Revised Impact Assessment

Preliminary analysis of the opportunity of issuing preparatory Guidelines

6.1. Before analysing pros and cons of the proposed groups of Guidelines with respect to the baseline, it is necessary, on a logical basis, to justify the choice of issuing Guidelines now or not, but instead doing nothing and waiting till the application of Solvency II.

6.2. For this null option it is possible to identify the following costs and benefits:

Option 0, not issuing preparatory Guidelines:

6.3. With regard to costs on the side of undertakings:

- a) Potential compliance costs may arise in case undertakings start doing investments, purchasing systems and implementing processes, which may need to be changed later due to changes in the negotiations;
- b) In the absence of preparatory Guidelines, practices may evolve differently with respect to other financial market sectors, provoking adjustment costs later (EBA issued Guidelines in 2012 and IAIS have issued "Core Principles on Governance");
- c) The risks, which insurers can be confronted with due to their specifics, can have a huge impact on the overall risks of the insurance undertaking or the whole group. Not taking them into account at an early stage can have a huge cost impact for the insurer at later time when the risks materialise.
- d) Another source of costs could be the final rush to set up systems right before the implementation date of Solvency II. During the rushing errors are also easier to happen.

6.4. With regard to costs on the side of national competent authorities:

- a) Member States have already started updating their legislation regarding the assessment of risks, so if they go further there will be the risk of inconsistent approaches;
- b) In the absence of preparatory Guidelines, supervisory practices may evolve differently with respect to other financial market sectors, provoking adjustment costs later (EBA issued guidelines in 2012 and IAIS have issued "Core Principles on Governance");
- c) Another source of costs could be the necessity to supervise undertaking during the final rush right before the implementation date of Solvency II. During the rushing errors are also easier to happen.

- 6.5. With regard to benefits on the side of undertakings:
- a) The advantage for the industry could be that, in structuring its forward looking assessment of own risks, undertakings have not to take into account any new aspects or further elements encompassed by these Guidelines.
 - b) In fact some member states might not have required fulfilling any forward looking assessment of own risks (based on ORSA principles).
 - c) However, one can argue if that (not having guiding principles) is really an advantage.
- 6.6. With regard to benefits on the side of national competent authorities:
- a) The advantage for national competent authorities could be that they do not have to take into account new aspects or further elements in the process of supervision of the compliance by undertakings.
 - b) However, one can argue if that (not having guiding principles) is really an advantage.
- 6.7. For consumers
- a) No immediate advantage as any costs that may be reflected on policyholders would also happen with normal preparation of Solvency II.
 - b) But a better understanding of its own risk by the insurance undertaking (and therefore a better risk management) is a huge advantage for policy holders and should come as early as possible. This brings a good reason for issuing preparatory guidelines.
- 6.8. The balancing between cons and pros led to the final evaluation that is beneficial for all providing now preparatory Guidelines, to help undertakings and national competent authorities in taking decisions and organising during the preparation phase.

1: Procedural issues and consultation of interested parties

- 6.9. The Impact assessment was prepared in the course of the policy drafting process, with the contribution of experts from different national competent authorities and EIOPA.
- 6.10. Selected stakeholders were pre-consulted in the preparation of the Guidelines.

2: Problem definition

- 6.11. Supervisory requirements with regard to risk management, including where applicable a forward looking assessment of own risks, vary widely

across Member States. These differing requirements impose unnecessary costs on the undertakings and groups and do not provide a level playing field. Therefore new requirements should harmonise and streamline supervisory requirements with regard to a forward looking assessment of own risks, based on ORSA principles.

- 6.12. From past and current experience with Solvency I it became evident that a formal and harmonised framework for a risk management system, focusing on the identification, assessment, managing, monitoring and reporting of risks, including a forward looking assessment of own risks and solvency needs, was needed and that the Administrative, Management or Supervisory Body (AMSB) had to be more involved in the processes of risk management and the forward looking assessment of own risk and solvency needs. Accordingly, the requirement for the undertaking to perform its own risk and solvency assessment should improve risk and capital management and help align regulatory and industry practice. However, due to some uncertainty regarding supervisory expectations on the ORSA there was a general consensus that harmonised Guidelines were needed.
- 6.13. Regulatory measures will tackle this problem by introducing the Solvency II; however there is still no political agreement on Omnibus II. However, further details on a forward looking assessment of own risks, based on ORSA principles are needed to ensure harmonisation and streamline supervisory reporting requirements among Member States.
- 6.14. The "Opinion of EIOPA on interim guidelines regarding Solvency II", issued on the 20 December 2012, stresses the importance of having a consistent and convergent approach with respect to the preparation of Solvency II. In the run-up of the new system, some key areas of Solvency II need to be addressed in order to ensure proper management of undertakings and to ensure that Supervisors have sufficient information at hand. A forward looking assessment of own risks and solvency is among these key areas. These preparatory Guidelines aim at guiding undertakings in their preparation of their risk management system and forward looking assessment of own risks.
- 6.15. Regarding the ORSA, EIOPA has already publicly consulted stakeholders. After having analysed all comments received during pre-consultation in winter 2010/2011, EIOPA conducted an impact assessment based on issues highlighted by stakeholders. In the public consultation conducted from November 2011 until January 2012 stakeholders did not raise any issues that EIOPA had not already addressed following the pre-consultation, but EIOPA revisited the options chosen and decided that they were still valid. This impact assessment represents a revisit of the

previous ones and was amended also in order to illustrate the potential consequences of applying the Guidelines during the preparatory phase.

Proportionality

- 6.16. National competent authorities are expected to ensure that the provisions described in the Opinion are applied 'in a manner which is proportionate to the nature, scale and complexity inherent in the business of the insurance and reinsurance undertaking'. The approach taken aims to ensure that this expectation can be met, and this is reflected in the drafting of the Guidelines in two principal ways:
- a) The Guidelines are principle based and drafted with a view to the outcome or supervisory objective that should be met;
 - b) The level of detail and scope of the Guidelines reflects the fact that the Guidelines are issued in order to prepare for Solvency II and not for its full application.
- 6.17. For the overall approach to proportionality on the preparatory Guidelines under consultation, please see the "Cover note for the Consultation Paper on Guidelines on preparing for Solvency II".
- 6.18. The forward looking assessment based on ORSA principles is an area where there is a significant change between the existing regulatory requirements and those under Solvency II. EIOPA, therefore, believes that it is not appropriate for national competent authorities to expect that all the provisions in these areas are met in the same way by all undertakings during the preparatory phase, and a number of thresholds are proposed in the Guidelines. Regardless of the threshold, EIOPA expects all undertakings to comply with all requirements at Day 1 when Solvency II will become applicable.
- 6.19. It is important to underline that the thresholds have been designed for use during the preparatory phase, as part of taking a proportionate approach. It does not indicate that requirements in these areas will not be in place for all undertakings within the scope of Solvency II Directive once it is fully applied. Consequently, for those undertakings that are not within the thresholds national competent authorities are still expected to ensure that these undertakings begin to prepare and develop appropriate plans.
- 6.20. EIOPA intends for a high proportion of the market to be within the provisions in these areas within each member state. This is in order to ensure that the benefits of consistent preparation set out above are met. EIOPA has also taken into consideration the latest discussions on OMDII with regard to reporting, so as to ensure that the thresholds for the

preparatory phase do not capture a greater share of the market than can be expected when Solvency II is applied.

- 6.21. With regard to the forward looking assessment, it is considered appropriate for all undertakings to conduct an assessment of their own risks and solvency needs, but given the greater complexity associated with the assessment of compliance with regulatory capital requirements, a threshold is proposed for the other two aspects of the assessment. It is also not considered appropriate for national competent authorities to expect undertakings or groups which are in the pre-application process for an internal model to perform the assessment of deviations from the assumptions underlying the standard formula calculation.

Baseline Scenario

- 6.22. When analysing the impact from policies, the methodology foresees that a baseline scenario is applied as the basis for comparing policy options. This helps to identify the incremental impact of each policy option considered. The aim of the baseline scenario is to explain how the current situation would evolve without additional public intervention.
- 6.23. For the analysis of the potential related costs and benefits of the proposed Guideline on the information to supervisors, EIOPA has applied as a baseline the current practice for regulatory reporting including any preparation that has been made for implementing Solvency II.

3: Objective pursued

- 6.24. The main objective of the Guidelines is to actively prepare undertakings and national competent authorities for performing the forward looking assessment of own risks according to Article 45 of Solvency II Directive. The EIOPA Opinion cited above states in item 9 that "undertakings which will be well-governed and which, in particular measure correctly, mitigate and report the risks which they face will be more likely to be prepared for the new regulatory framework and act in the interests of policyholders".
- 6.25. The aim of the Guidelines on a forward looking assessment of own risks is to provide guidance to undertakings to prepare their own risks assessment in the light of the future entering in force of Solvency II.

4: Policy Options

- 6.26. This Impact Assessment is based on the Issues paper from 2008, and comments received from public consultation (for the comments received from stakeholders responding to this consultation visit EIOPA website:

<https://eiopa.europa.eu/consultations/issues-papers-surveys-and-questionnaires/index.html>). A feedback statement was issued to inform stakeholders of the understanding from EIOPA on the ORSA as well as how EIOPA interpreted the requirements in the draft Solvency II proposal from 2008

(https://eiopa.europa.eu/fileadmin/tx_dam/files/consultations/Issues-Paper-ORSA-%20Feedback.pdf).

- 6.27. The focal point of the issues paper from 2008 was the ORSA on the individual undertaking level but after the pre-consultation it became evident that group issues for the ORSA were a major concern for stakeholders. Later on it also became clear that guidance on the interaction between ORSA and partial/full internal models was an important issue that needed to be addressed.
- 6.28. Based on this, EIOPA developed draft Guidelines on ORSA combining individual and group ORSA and addressing their respective specificities as well as issues regarding the ORSA of insurance undertakings using internal models for the calculation of their SCR.
- 6.29. These draft Guidelines were pre-consulted in winter of 2010/2011 with AMICE, CEA (now Insurance Europe), Group Consultative, CRO Forum, CFO Forum and FEE.
- 6.30. The main results of the pre-consultation were that the consulted stakeholder groups agreed that the focus of the guidance should be on what needs to be achieved by the ORSA rather than on how it is to be performed. Stakeholders also agreed that the ORSA process is an important process within undertakings as a self-assessment tool for the undertaking and should be left with sufficient room for the individual approach within the undertaking. Undertakings should perform the assessment in accordance with the nature, scale and complexity of their business. It is important that the overall process is internally planned, performed and documented before reporting to the supervisor in order to give the supervisor the most current picture of the undertaking's risk profile and overall solvency needs. The emphasis should primarily be on the adequacy of the process for providing the AMSB with insight in the risks of the undertaking as well as improving risk management and better understanding the undertaking's overall solvency needs.
- 6.31. It is acknowledged that undertakings should perform the assessment in accordance with the nature, scale and complexity of the risks inherent to their business. Although consulted stakeholders agreed that the proportionality principle is not on different requirements but on different ways to fulfil the requirements they would also prefer more details on the application of the principle. However, as the proportionality principle

should be reflected in the process and not on what is to be achieved this made it difficult to address the application of the principle in the previous draft of the guidelines. Efforts have been made in this regard and EIOPA believes that the draft published in July 2012 reflects an improvement on the previous draft.

- 6.32. After EIOPA decided to publish preparatory Guidelines on ORSA it was necessary to introduce changes to the Guidelines that accommodate the postponement of the Pillar I issues. The changes are not extensive but the introduction was amended to explain the scope of the Guidelines during the preparatory phase.
- 6.33. As preparation for ORSA is influenced by the fact that not all elements of the ORSA can be performed in a regime that quantitatively is not yet in the Solvency II world, EIOPA discussed whether some requirements should not be applied the same way during the preparatory phase. E.g. EIOPA considered whether reporting of the forward looking assessment of own risks outcome to the supervisory authority was applicable. It was decided that a forward looking assessment of own risks Supervisory Report should be submitted to supervisory authorities and encompass the assessment of overall solvency needs as well as - for the undertakings required to perform these based on the threshold for reporting - the assessments of the continuous compliance with the Solvency II capital requirements/technical provisions requirements and the significance of the deviation from underlying assumptions.
- 6.34. Since the requirement to report on the outcome of the ORSA is prescribed in Article 45 of Solvency II Directive it was not considered optional, not to include a report for the preparatory phase. EIOPA also believes that it is important that supervisory authorities get the information on the forward looking assessment of own risks to improve insight into the risk profile of undertakings and – with regard to the two assessments only to be reported by some undertakings - to be able to monitor the preparation for Solvency II quantitative requirements.
- 6.35. The current IA focus on two different areas. It includes three specific issues for the preparatory phase and three issues applicable not only at preparatory phase but also for future ORSA requirements, following from comments received in previous papers.
- 6.36. In the light of the specific characteristics of these preparatory Guidelines, it was agreed to describe policy options not Guideline by Guideline, neither group by group of Guidelines, but to proceed by areas. In fact, the Guidelines are all strictly linked and interrelated, and analysing them one by one would have ended up in a too fragmented and partial description. It has been judged more appropriate to present directly

policy options EIOPA considered, and then offer motivations about the preferred final choice.

- 6.37. EIOPA has identified six policy options that were considered. The options are based on what EIOPA believes could have the most significant impact on undertakings and the level of protection for policyholders as well as beneficiaries. The focal point is how an underlying problem could evolve, all things being equal, if such options were not decided upon. The policy options described below are not competing with one another, but are proposed as a solution to different aspects of the lack of harmonisation in this area.
- 6.38. During the policy development process the focus was on the main policy questions listed below. On the basis of the following policy questions the ensuing policy options were considered:

Specific areas for the preparatory phase:

1. Whether the performance of an assessment on the continuous compliance with regulatory capital requirements and on the requirements on technical provisions as well as an assessment of the significance of the deviation of an undertaking's risk profile should be required during the preparatory phase.
2. Whether to provide preparatory Guidelines and examples on a forward looking assessment of own risks and solvency supervisory report.
3. Whether to keep the possibility during the preparatory phase to allow groups to produce a single forward looking assessment of own risks document.

General areas for the preparatory phase and future ORSA guidelines:

4. Whether to detail a forward looking assessment of own risks and solvency policy.
5. Whether to require a quantitative assessment for all deviations from the standard formula regardless of their significance.
6. Whether the use of the internal model should be allowed for the assessment of the continuous compliance with regulatory capital needs for undertakings in the pre-application process.

Section 5 in this Annex outlines the pros and cons for each option and the respective analysis. Section 6 concludes which options have been preferred and which have been discarded and why.

5: Analysis of the Policy Options

- 6.39. In this section we aim to describe the different options and the respective expected positive and negative effects from the considered policy options regarding the main groups of stakeholders. The analysis considers the expected effect on insurance and reinsurance undertakings and groups (undertakings), national competent authorities and policyholders.
- 6.40. As a consequence of the choice of describing options not Guideline by Guideline, nor group by group of Guidelines, but by areas, it was agreed to give to this chapter a structure symmetric to the structure of the previous chapter. For each option, arguments are constructed to prepare the selection of the preferred one. In the next chapter, these pro and cons are compared and the final choice.

Specific areas for the preparatory phase:

1. Whether the performance of an assessment on the continuous compliance with regulatory capital requirements and on the requirements on technical provisions as well as an assessment of the significance of the deviation of an undertaking's risk profile should be required during the preparatory phase

- 6.41. While the assessment of the overall solvency needs assessment can be performed irrespective of the regulatory capital regime in place, the assessments of the continuous compliance with regulatory capital requirements and the requirements on technical provisions according to Article 45 of Solvency II Directive are strongly connected with Solvency II quantitative requirements. EIOPA discussed whether these assessments should be applied anyway during the preparatory period as if the Solvency II quantitative requirements already were in force to provide information about the undertakings potential situation in a Solvency II context for the undertakings themselves and for supervisors.
- 6.42. Expecting undertakings to perform the assessments according to Articles 45(1)(b) and (c) of Solvency II Directive already during the preparatory phase as if Solvency II requirements were fully applicable would increase implementation costs for undertakings for the moment as they cannot put off introducing a process covering all elements of the ORSA as set out in Article 45 of Solvency II Directive until the full Solvency II application. They would also have to perform an assessment of compliance with future capital requirements while still having to continue assessing and ensuring that they are able to meet the solvency requirements of the current supervisory regime. As for the assessment of the deviation between the undertaking risk profile and the assumption of the standard formula, the assessment would serve to indicate to undertakings and

national competent authorities whether the Solvency Capital Requirement of an undertaking potentially is not fully captured by using the standard formula and would enable early discussion about how this could be resolved.

- 6.43. The assessment of the continuous compliance on the other hand would render more reliable information about potential difficulties for undertakings to meet the future Solvency II quantitative requirements if it could be based on finalised Solvency II technical specifications but would still be useful even if those were not available: as undertakings have to prepare themselves for the requirements of the new regime they would have to use whatever information is available to determine their future regulatory capital requirements according to the new rules ahead of the introduction of the new capital regime anyway in order to ensure that they are able to meet the new requirements as of day one. Asking that the continuous compliance assessment already be performed therefore requires a preparation for Solvency II quantitative requirements that undertakings would have to accomplish in the run up to the full introduction of Solvency II in any event, however in a more organised and exacting way than might be the case otherwise. But forming an opinion on the preparation for Solvency II capital requirements in this more organised and systematic form could serve to help undertakings with implementing the necessary processes and procedures for the undertaking's own risk and solvency assessment under real Solvency II conditions.
- 6.44. As the outcome of the assessment has to be reported to the supervisory authority, the performance of the assessment would also give the national competent authorities the opportunity to not only assess the preparedness of undertakings for meeting the Solvency II capital requirements but also that they are sufficiently advanced in implementing the operational structures needed to ensure that risk management and capital management are appropriately linked. Performing such an assessment ahead of the Solvency II introduction is an opportunity to discover weaknesses in processes and procedures and take remedial steps when undertakings are still in the dry run phase and deficiencies do not yet call for other supervisory measures than more intensive communication with the undertakings concerned.
- 6.45. EIOPA believes that these assessments are worthwhile during the preparatory period in order to show their own preparedness to undertakings. As no supervisory action is envisaged after conducting the assessments, in which a link to quantitative parts of Solvency II is inherent, EIOPA encourages a clear and transparent dialogue between the undertaking and the national competent authority concerned. This dialogue aims for better preparedness of the undertaking and a better

understanding on the supervisory side about the actual risks the insurance company is facing. Future supervisory measures once full Solvency II will be implemented can be avoided on a less costly base for undertakings and consumers.

2. Whether to provide guidelines and examples on a forward looking assessment of own risks and solvency supervisory report

- 6.46. It is expected that some requirements regarding the level of detail for the ORSA supervisory report will be set out in the Implementing Measures. As the Guidelines need to stand without Implementing Measures it was discussed if the Guidelines should include a forward looking assessment of own risks supervisory report, including whether a detailed description or an actual example of a structure and content should be provided to ensure a common baseline and a minimum level of detail.
- 6.47. How an undertaking wants to document the process, procedures and results is very undertaking specific and EIOPA's concerns are that a structured report could influence the reporting of the forward looking assessment of own risks. Moreover detailed Guidelines could affect the way the undertaking develops these processes and hence its overall forward looking assessment of own risks performance and subsequently the internal documentation and the reporting to the national competent authority. Accordingly, providing a template for a structured report could compromise the undertaking's own assessment. On the other hand, by not providing a structure there might be lack of harmonisation even though Implementing Measures on reporting requirements are expected to give some minimum requirements for the undertakings' ORSA Supervisory Report. This non-harmonised structure makes comparison between undertakings as well as information sharing between supervisors and in colleges more difficult.
- 6.48. EIOPA not providing an example on a structured report gives the undertaking the opportunity to design its own reporting template that fits the nature, scale and complexity of the risks inherent in the business of the undertaking and ensures the involvement of the AMSB to develop a template it believes provides sufficient information internally and to supervisory authorities. Additionally, a non-structured report allows the undertaking to use its internal reporting as a basis for the forward looking assessment of own risks supervisory report, if deemed adequate by the AMSB.
- 6.49. A main focus is to ensure that supervisory authorities get current information on all forward looking assessment of own risks performed by all undertakings.

6.50. Based on this EIOPA believes that it would not be helpful to give an example on a structured report, but rather give the undertaking the opportunity to develop its own reporting template for the forward looking assessment of own risks and solvency supervisory report to ensure the involvement of the AMSB and that it contains what they want reported.

3. Whether to keep the possibility during the preparatory phase to allow groups to produce a single document of the forward looking assessment of own risks

6.51. For the college of supervisors, allowing the group to produce a single document is a decision that has an impact on every supervisor of the entities in the scope of the single document as the information received as a supervisory report of the forward looking assessment of own risks will be different or at least presented differently. Article 246 of Solvency II Directive explains that the decision to allow the group to perform the single document is taken by the group supervisor after consultation of the college. Nevertheless, it is not clearly explained what influence the group supervisor, and the member of the college have on the final decision.

6.52. During the preparatory phase, the group supervision will still be regulated by the Sienna and Helsinki protocols and the functioning of colleges of supervisors will not be the same as when Solvency II will be in force. That means for example that probably in most colleges there will be no process in force to take a decision like allowing the group to produce a single forward looking assessment of own risks. It is nevertheless possible that a coordination arrangement is already in force in the college during the preparatory phase.

6.53. It was discussed if EIOPA should keep the option for groups to make the single forward looking assessment of own risks document and then if EIOPA should provide the college with a Guideline for decision making in the college on that issue in case there was not an existing one.

6.54. EIOPA believes that it should be possible during the preparatory phase, for the group, to have the opportunity to undertake the forward looking assessment of own risks at the level of the group and produce a single document covering all the assessments.

6.55. As it will be in any case a demand from the group, the cost and benefits, in term of scale economies and rationalisation of the process for the forward looking assessment of own risks within the group as well as with the relationship with the supervisory authorities and the college can essentially be positive for the group. The outcome of the analysis will be

especially positive if risks are made more transparent which lay in the structure of the group and / or escalate on group level.

- 6.56. On the other hand, for the national supervisory authorities concerned, the single forward looking assessment of own risks document instead of a dedicated individual forward looking assessment of own risks supervisory report may represent a constraint as the information provided is not specifically designed for each national supervisory authority concerned but for the group as a whole.
- 6.57. This special case can pose additional costs for the undertaking concerned, but these costs do not differ in the preparatory period.
- 6.58. The impact on consumers and policyholders can be valued neutral in general terms. Risks on group level will be more transparent and therefore the protection for policyholders will increase in this respect. On the other hand a single document of the forward looking assessment of own risks has a less granular approach on entity level, which resolves in slightly less policyholder protection.

General areas for the preparatory phase and future ORSA guidelines:

4. Whether to detail a forward looking assessment of own risks and solvency policy

- 6.59. A written policy is required by Solvency II Directive for the risk management system and since the forward looking assessment is a part of the risk management system, a policy on this area needs to be included. It was discussed whether EIOPA should define the minimum requirements of this policy for the forward looking assessment of own risks.
- 6.60. As EIOPA believes that this assessment is one of the most important processes under the Solvency II regime and as it requires the input from various sources within the undertaking and from external sources as well, it is important that an undertaking ensures that all relevant information is taken into account.
- 6.61. The assessment as part of the risk management system is required in Article 41(3) of Solvency II Directive, should be approved by the AMSB and properly implemented by the undertaking to achieve an effective system of governance.
- 6.62. EIOPA is aware that developing a proper policy that contains the right information to ensure a proper performance of the forward looking assessment could be time consuming. But this policy is required to give insight to and oversight of the decision making process and risk

understanding inside the AMSB as well as ensuring the undertaking has a comprehensive picture of all the risks it is exposed to. It also ensures the necessary level of responsibility by the AMSB and a policy will help them in deciding the level of documentation needed, the allocation of responsibilities and workflows and identifying the undertaking's core business with regard to its risk management system as well as what they believe is important for such a process.

- 6.63. Hence, EIOPA believes it is necessary to set out the policy in such detail as to ensure proper governance and subsequently good results. This is a requirement of Articles 41(3) and 45 of Solvency II Directive, and this particular process requires a higher standard for the internal documentation as well as input for the supervisory report of the forward looking assessment. Accordingly, by requiring such a policy, EIOPA emphasizes that an appropriate level of detail is expected depending on the nature, scale and complexity of the risks inherent to the business of the undertaking.
- 6.64. With proper processes laid down in the policy of the forward looking assessment the undertaking ensures a better degree of quality for the assessment itself. Vice versa an assessment will be of less quality if important and significant sources of information will be overseen or if the responsibility of the AMSB is not clearly set out in the policy. This will be more costly for the undertaking at the beginning when setting up the policy. But as only good processes for the assessment will lead to good assessments it can be expected that in the long run this will cost less time and resources for the undertaking.
- 6.65. Therefore for the preparatory phase EIOPA considers appropriate for undertakings to develop a policy for their forward looking assessment of own risks.

5. Whether to require a quantitative assessment for all deviations from the standard formula regardless of its significance

- 6.66. An assessment of the deviation from the standard formula is required, in order to determine whether the deviation is significant. The question was whether the quantitative assessment of the deviation should be a Guideline to all deviations or only for significant deviations. This would entail that an initial qualitative assessment would be acceptable as an indication for the significance of the deviation.
- 6.67. EIOPA believes that the most appropriate approach to the assessment of the deviations is to perform a qualitative assessment as a first step, so that undertakings do not have to do a potential burdensome quantitative assessment for all deviations. EIOPA will expect quantification as a

second step, only if the qualitative assessment indicates a significant deviation from the assumptions underlying the Solvency Capital Requirement calculation.

- 6.68. On the other hand, the qualitative assessment of the deviation could be sufficient as a starting point, as quantification may be time consuming and costly and cannot be taken as definite anyway but there is an increased possibility of error, since the qualitative assessment may indicate that the deviation is not significant when in fact it is. EIOPA is aware of that quantification can be rather burdensome.
- 6.69. EIOPA accepts the error margin and only requires quantitative assessment when qualitative assessment indicates that deviation is significant and will have a material impact.
- 6.70. The same approach is taken on forward looking assessment of own risks during the preparatory phase.

6. Whether the use of the internal model should be allowed for the assessment of the continuous compliance with regulatory capital needs for undertakings in the pre-application process

- 6.71. With the assessment of the overall solvency needs being an undertaking's own assessment of the risks it is or could be exposed to and how they should be managed or covered with capital, it is understood that for undertakings seeking supervisory approval for an internal model that they have developed, this model is used in the assessment. If the undertaking did not trust its own model sufficiently to use it for its overall solvency needs assessment this would provide a strong reason to refuse approval of the model. However, for the assessment of the continuous compliance with regulatory capital needs that is to be performed by undertakings within the 80% market share threshold it is not obvious that use of the not yet approved internal model should be allowed instead of the use of the standard formula. EIOPA consequently discussed whether it is appropriate that potential internal model users should be required or should have the possibility to employ their internal model for this assessment.
- 6.72. Undertakings within the 80% market share threshold are expected to perform the assessment of the continuous compliance with regulatory capital requirements under Solvency II conditions in order to prepare for the change in capital needs that will follow the introduction of the quantitative requirements of the Solvency II regime. Undertakings that are in the pre-application phase for the internal model cannot be sure that their internal model will eventually be approved by the supervisory authority – at least not without some changes. There always remains an

element of uncertainty as to whether the steps taken by an undertaking to comply with the requirements on internal models are sufficient and appropriate with regard to the individual circumstances of the undertaking and the modelling it has chosen. If these undertakings were allowed to only use their internal model for assessing continuous compliance with Solvency II capital requirements this would entail the risk that their preparation for the Solvency II regime could be based on expectations that do not come to pass as approval of the internal model is refused. This could be avoided if they used in addition the standard formula for the assessment but in this case they could miss out on a better preparation for the use of the internal model during the pre-application period that they would benefit from where the assessment to be based on the internal model output. The use of the standard formula while providing information that could be useful for the pre-application process would also have serious drawbacks from the supervisory perspective as the supervisory authority loses a good opportunity to form a view about the appropriateness of the internal model the undertakings intend to submit for approval. On the other hand, if the internal model could not be approved as applied for it would be important to know what would be the outcome if the standard formula were to be used. Indeed for the supervisory authority it would be most advantageous to have both the information on the assessment based on the standard formula and the internal model as input to the pre-application process. EIOPA acknowledges that there are similar assessments in the pre-application process for the internal model and in the FLAOR process. Cross-references can be made as long as there are clearly identifiable.

- 6.73. The same approach is taken on forward looking assessment of own risks during the preparatory phase.

6: Comparing the options

- 6.74. Weighting the complexity of the assessments and the resources they would bind for undertakings and national competent authorities alike against the usefulness of the information these would render and the helpfulness of practicing the assessments in a dry run, EIOPA has come to the conclusion that these assessments should not be required from all undertakings but should be limited to undertakings which are also subject to submission of information as these assessments are even more challenging than providing the information for the purposes of submission of information. Hence, Guideline 3 introduces a threshold that is consistent with the threshold for submission of information on annual basis. Taking into account that for undertakings that have entered the pre-application phase for an internal model all relevant issues that are to be addressed in the assessment will be dealt with in the pre-application

process, the Guideline further excludes undertakings which are in the pre-application process from any requirement to perform this assessment even where the undertaking concerned is within the threshold.

- 6.75. EIOPA believes that the proposed policy options help achieve the objectives pursued in enhancing the protection of policyholders and beneficiaries and improving the international competitiveness of EU insurers and reinsurers, in an efficient and effective way. A specific characteristic of the policy options proposed, and which contributes to an effective and efficient result is that they allow for supervisory practices to be applied in a proportionate manner with respect to risks.
- 6.76. EIOPA appreciates that issuing these Guidelines may have an economic impact for undertakings. However the benefits of having a common understanding of the forward looking assessment of own risks between undertakings and supervisors are a vital step to ensure a level playing field and the much needed transparency. Hence, a common understanding on how an undertaking should assess its own risks on a continuous basis and how to use this information to ensure good governance within the undertaking.
- 6.77. The same applies for the option on whether to detail a policy on the forward looking assessment of own risks. Article 41 (3) of Solvency II Directive already requires a written policy for the risk management system and since the forward looking assessment is part of that, it makes most sense to require an appropriate policy on how to perform, manage, monitor and document this assessment as well as ensuring the AMSB's involvement in and understanding of the process. The policy on FLAOR can be an integrated part of the risk management policy which is clearly identifiable. Or the FLAOR policy can be a separated policy.
- 6.78. The option of whether to provide a structure for the forward looking assessment of own risks supervisory report was, that a certain level of harmonisation will be provided by draft Implementing Measures, and EIOPA found it better to give undertakings the flexibility of deciding what they find to be the relevant information that should be documented and disclosed to supervisors. The forward looking assessment of own risks can be a very complex process that involves most of the undertaking and it requires the AMSB to be involved in all policies, processes and procedures– especially their risk exposure and how to assess it. Furthermore is an undertaking-specific tool, which has to take into account the nature, scale and complexity and level of documentation undertakings prefer. Consequently, the option of providing a structure for the report was discarded, since it would be difficult to make a one-size-fits-all structure for the supervisory report.

- 6.79. Whether it is better for an undertaking to use the internal model it means to apply for or the standard formula in the assessment of the continuous compliance with capital requirements eventually depends on whether the internal model is approved as applied for or not. As it is not possible to predict at this point in time whether most internal model applications will be fully successful or not, the decision about the option cannot be based on what is likely to be the better solution for the majority of undertakings. It also does not seem appropriate to let the supervisory authority determine on an individual basis whether an undertaking should be allowed to use only the internal model for the assessment. This could be taken as predetermining the outcome of the approval process which is something the national competent authority should not do. Expecting the assessment on both bases, the internal model and the standard formula, while avoiding the drawbacks of both solutions increases the costs for undertakings as they would have to dedicate more resources in the preparation for the use of the internal model and the standard formula. The costs for the national competent authorities increase as well; as the range of the analysis for the undertaking grows more resources are needed to assess the undertaking's analysis. However, bearing in mind that the pre-application process is not a pre-approval process so that undertakings cannot rely on their internal model being approved as applied for and need to prepare for the eventuality that they may have to use the standard formula in any case by way of contingency planning, EIOPA decided to allow the use of the internal model for the assessment with the provision that the undertaking has then to explain the effect if it turns out the undertaking has to use the standard formula as approval for the model is refused. The increase in time and effort this costs the supervisory authority is balanced by the fact that the additional information enables the supervisory authority to make a better decision whether the application of the undertaking for the internal model should be approved. Consequently, the Guidelines state that during the preparatory phase national competent authorities should allow internal model users to perform the assessment of the continuous compliance with capital requirements based on their internal model provided that the undertaking is able to explain the effect on capital needs if the standard formula were to be used instead.
- 6.80. Finally EIOPA had the option of whether to require a quantitative assessment for all deviations or only when the qualitative assessment showed that there was a significant deviation from the assumptions underlying the Solvency Capital Requirement calculation.
- 6.81. EIOPA have accepted the error margin and will only require quantitative assessment when qualitative assessment indicates that deviation is

significant and could have a material impact on the risk and capital management.

7: Concluding remarks

6.82. The largest part of costs related to forward looking assessment of own risks arises directly from preparation to comply with Solvency II. Taking into account there are no Implementing Measures for ORSA, EIOPA Guidelines aim at detailing requirements already introduced by Article 45 of Solvency II Directive, so promoting a harmonized interpretation among undertakings and supervisors. Costs and benefits of EIOPA Guidelines can be summarized as in the following breakdown.

Undertakings

6.83. Additional costs for undertakings can be evaluated of a much minor scale with respect to those introduced by preparation for Solvency II:

- a) The request for a written forward looking assessment of own risks policy is a specification of what Solvency II already states for the ORSA under the overall risk-management system (article 41 of Solvency II Directive). Therefore there are no significant costs in relation to the preparatory Guidelines for undertakings;
- b) The same consideration can be valid for the supervisory report, which is required by Articles 35 and 45 of Solvency II Directive, and for which EIOPA decided not to set a predefined structure, but rather give the undertaking the opportunity to develop its own appropriate format;
- c) As for deviations from assessments based on the standard formula, also in this case EIOPA opted for a balanced interpretation of Solvency II, asking for quantification only in the case a first qualitative analysis indicates that the deviation is significant;
- d) The group-perspective applies *mutatis mutandis* and EIOPA just specified this perspective for the forward looking assessment of own risks, at the same time allowing the national competent authority of subsidiaries to require a translation into its language of the part of the group information regarding the entity concerned (when different from the language of the group in which the document for the forward looking assessment is written);
- e) The decision to perform a forward looking assessment of own risks at least annually (if no other relevant changes happen in the meanwhile), though a specification added by EIOPA, aligns to the normal frequency undertakings have to respect for budget purposes and capital requirement calculations;
- f) Finally, EIOPA Guideline to record each process or the forward looking assessment and produce an internal forward looking assessment of

own risks report, to favour sharing information within the undertaking, should be seen as a straightforward consequence of the request in Solvency II Directive to insert the forward looking assessment in the overall risk-management system with a management benefit for the understanding.

- 6.84. In front of minor additional costs arising from EIOPA Guidelines, undertakings would gain benefits:
- a) Help in organising forward looking assessment of own risks processes and linking it to the other parts of governance;
 - b) Prevent possible errors in the risk management and solvency needs and therefore costly adjustments for the undertaking;
 - c) Give the basis of a common European understanding for all undertakings about the relevance of risk management and solvency needs, strengthening soundness and transparency of the market, and promoting best practices across countries;
 - d) Can simplify the interactions between undertakings and supervisory authorities, so allowing avoiding costs connected to other supervisory review and / or possible revisions of the regulation set.
- 6.85. All possible costs arising from the Guidelines have an on-going nature, related to the periodical assessments.

Supervisory Authorities

- 6.86. Also on the side of supervisory authorities, the largest part of costs related to the forward looking assessment of own risks arises directly from preparation for Solvency II. In particular, Authorities will be asked to analyse, at least year by year, supervisory reports, in order to verify, for each undertaking, overall solvency needs and possible effects of deviations from the underlying assumptions of the standard formula. Cost added by EIOPA Guidelines can be considered of a much minor scale. However, the choice not to give a unique predefined template to the supervisory report can, at least to some extent, complicate the functions of national competent authorities. The same consideration can be repeated also for the choice to require quantitative evaluations of deviations from the standard formula not in every case, but only when a qualitative analysis has indicated possible significant differences. This option could imply more attention by national competent authorities in verifying qualitative arguments proposed by undertakings.
- 6.87. In front of these minor additional costs, authorities will surely benefit from the overall package of Guidelines for the preparatory phase, by gaining a far better insight in the risk and capital situation of an undertaking. Moreover, the forward looking perspective can serve as an

indicator of future supervisory reviews and measures. Assuring that supervision and controls will apply to a more homogeneous and harmonized set of regulation within each country and across countries is another benefit from the Guidelines. The functions of national competent authorities will be simplified, favouring cooperation among supervisors and, as for undertakings, the emergence of best practices.

- 6.88. Also on the side of national competent authorities, costs arising from the Guidelines have an on-going nature, related to the periodical assessments.

Policyholders

- 6.89. While the overall costs of implementing the forward looking assessment of own risks could be, at least to some extent, transferred from undertakings to consumers depending on market conditions prevailing in each country, no additional costs are expected for consumers directly from EIOPA preparatory Guidelines. Consumers will surely benefit from the sounder governance and the higher level of transparency associated with formal own risk assessments, well inserted inside the overall risk-management system.
- 6.90. EIOPA believes that the application of the proposed preparatory Guidelines ensures a harmonised and comparable basis for undertakings' risk and capital management as well as for the risk-based supervisory assessment. Moreover EIOPA is convinced that the application of these Guidelines will ensure common understanding and a level playing field.

Appendix 2: Resolution of comments

Summary of IRSG Comments on Consultation Paper No. 13/09 - EIOPA-CP-13/09				02 October 2013
CP-13-009_FwdLooking_Assessment				
EIOPA would like to thank EIOPA Insurance and Reinsurance Stakeholder Group (IRSG)The numbering of the paragraphs refers to Consultation Paper No. 13/09 (EIOPA-CP-13/09)				
No.	Name	Reference	Comment	Resolution
18.	Insurance and Reinsurance Stakeholder Group (IRSG)	General Comment	<p>The guidelines are focusing on the Forward looking assessment of the ORSA explaining that this forward looking assessment can be undertaken irrespective of what regulatory quantitative requirements are applicable and so eventhough Pillar 1 is not clear.</p> <p>The 2 other parts of ORSA: (i) assessment of the continuous compliance with regulatory capital requirements and the requirements on technical provisions (ii) and the assessment of the significance of the deviation of the risk profile of an undertaking from the assumptions underlying the calculation of the SCR have a strong connection solvency II Pillar 1 which are not yet applicable during preparatory period.</p> <p>However, the Guideline 3 sets the full scope for ORSA as a requirement for all undertakings :</p> <ul style="list-style-type: none"> - Falling in the 80% of the market as defined for pillar 3 transitory measures - Or groups falling in scope for submitting annual quantitative information 	EIOPA will only request the assessment of the overall solvency needs in 2014; for the other assessments (GL 14-16) EIOPA will provide technical specifications in the course of 2014 and will require undertaking to perform those in 2015.

			<p>- Or undertakings with an internal model</p> <p>This leads to the requirement to perform a calculation which is not clearly defined, for an assessment which is not a regulatory basis and that will add to the requirement to compare with an internal model "approvable" by the NCAs. There is little room for an "own risk and solvency assessment" under this framework, meaning for an economic capital reflecting how the company consider its risk exposure. This will not help undertakings to draw management attention on the results of the ORSA. Eventhough an agreement is reached on Pillar 1 by end 2013, the guidelines are too constraining for an interim period. And if no agreement is reached, it is simply not feasible.</p> <p>Calibrate or calculate pillar 1 figures without an adopted basis is not feasible.</p> <p>The supervisory benefit of an instrument such as a forward looking assessment which is not based on a stable and clear basis is more than questionable.</p> <p>The outcome of the LTGA shows that it is risky to suppose compliance with Solvency II for all undertakings without having found an appropriate solution for the long term guarantee business. In addition, the definition of compliance with Solvency II is still unclear until at least the Omnibus II has been adopted.</p> <p>The guidelines of a forward looking assessment which is included in package of interim measures are not principles based but consist of very detailed regulations and processes where no clear legal basis is available. The rules are very detailed and elaborated and the requirements of the documentation are complicated to fulfill.</p> <p>We would have welcomed Guidelines providing incentive to implement, run</p>	<p>See above and Feedback Statement</p> <p>Agree; therefore see above</p> <p>It is the undertaking</p>
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			<p>and report on a true and internally trusted ORSA process, built on the assessment methodology reflecting the current internal management understanding of risk exposure and solvency position.</p> <p>Similarly, for an undertaking with no internal model, the assessment of whether or how the risk profile of an undertaking compares with the assumptions underlying the standard formula may prove difficult. The EIOPA paper describing the assumptions underlying the standard formula is essential to help there.</p> <p>Explanatory text</p> <p>There are problematic discrepancies between the guidelines and the explanatory text that lead to uncertainty about what requirements companies need to fulfil. The explanatory text on several occasions provides more detailed, additional requirements in a prescriptive way, rather than providing additional information and examples.</p> <p>The discrepancy pointed out here need to be corrected and the way to do it is to make the explanatory text less prescriptive, not adding requirements in the guidelines. The following are prominent examples of when the explanatory text inappropriately can be read as providing additional requirements: Paragraphs 3.18 (record of each FLA), 3.36 (components of the ORSA), and 3.59 (process for analysing deviations from assumptions) of the explanatory text document.</p>	<p>who decides on appropriate measures in order to reflect its risk profile.</p> <p>EIOPA will provide such paper in the course of 2014.</p> <p>See Feedback Statement 'Status of the Explanatory Text'; the Explanatory Text is outside the scope for the consultation</p> <p>EIOPA has changed the wording in the first and third example to clarify that these are expectations and not requirements.</p>
114.	Insurance and Reinsurance Stakeholder Group (IRSG)	1.15	<p>For this purpose, and in respect with the proportionality principle, it should be possible for the AMSB to delegate any sub-committee which could tackle relevant issues aiming at FLA. The composition of this committee should be balanced in order to reflect the diversity of the AMSB.</p>	<p>Noted; a subcommittee does not take away the ultimate responsibility of the AMSB for the FLAOR; see feedback statement</p>

262.	Insurance and Reinsurance Stakeholder Group (IRSG)	1.28	Interim measures should focus on the preparedness of internal models instead of the standard formula for undertakings engaged in the pre-application process.	<p>For undertakings engaged in a pre-application process for internal models, according to Guideline 1 of the Pre-application Guidelines for Internal Models, it is expected that they prepare for the eventuality that their internal model may not be approved and set up processes to calculate the standard formula Solvency Capital Requirement as well as to consider the capital planning implications.</p> <p>To be in line with this, in the assessment of the continuous compliance with regulatory capital requirements, undertakings in pre-application may use the internal model for such an assessment provided that they demonstrate that they are preparing for the eventuality that their model may not be approved in the terms</p>
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				<p>set out in Guideline 1 of the Pre-application Guidelines for Internal Models.</p> <p>Please note that for the assessment of the overall solvency needs more flexibility is given, and, for the assessment of the significance of the deviation of the risk profile from the SCR calculation, undertakings under pre-application should not be required to do this assessment during the interim period.</p> <p>This will be clarified in the Guidelines.</p>
334.	Insurance and Reinsurance Stakeholder Group (IRSG)	1.33	The specification of "stress tests, sensitivity analyses and reverse stress tests" requires the undertaking to perform defined methods for the assessment. In our view this is too precise and more flexibility should be granted to the undertaking in line with the aim "that the guidelines focus on what is to be achieved by this assessment rather than how it is to be performed" (1.12).	See Feedback Statement specific part
350.	Insurance and Reinsurance Stakeholder Group (IRSG)	1.34	Full documentation of the record of each ORSA process should be required only when the process is fully implemented under Solvency II, considering the overall development until the effective entry in force.	Disagree; EIOPA believes that for preparatory purpose and development the documentation is very important.
367.	Insurance and Reinsurance	1.35	This report has to be communicated to specifically interested classes of stakeholder including working council or any equivalent body.	See Feedback Statement specific

	Stakeholder Group (IRSG)			comments by IRSG
413.	Insurance and Reinsurance Stakeholder Group (IRSG)	1.37	This guideline is inconsistent with the approach described in the Cover note. By requiring all undertakings to quantify the impact on the overall solvency needs of using different recognition and valuation basis, EIOPA is imposing Solvency II Pillar I calculations to all undertakings.	<p>The assessment of the overall solvency needs is seen to be relatively independent of the final outcome of pillar I and is therefore requested even in the FLAOR during 2014. Different valuation and recognition basis than those in Solvency II can be used for the overall solcveny needs.</p> <p>The latter assessments (see Guidelines 14;15;16) are only applicable after technical specifications are made available by EIOPA. We believe that it is important for the preparation for Solvency II for undertakings to start their assessment for these Guidelines.</p>
432.	Insurance and Reinsurance Stakeholder Group (IRSG)	1.38	Same as comment above: This guideline is inconsistent with the approach described in the Cover note. By requiring all undertakings to quantify the impact on the overall solvency needs of using different recognition and valuation basis, EIOPA is imposing Solvency II Pillar I calculations to all undertakings.	It is the undertaking who decides on the valuation basis for its overall solvency needs assessment; the impact can be estimated on best effort basis; as

				FLAOR is preparing for Solvency II the impact on overall solvency needs under Solvency II needs to be taken into account; see new wording of Guideline 11.
552.	Insurance and Reinsurance Stakeholder Group (IRSG)	1.45	a)	Noted
593.	Insurance and Reinsurance Stakeholder Group (IRSG)	1.48	The guidelines requires more than 4 detailed reports (guideline 20) by the undertaking and the supervisor but it still does not solve the important issue of the language in groups. Guideline 20 still does not refer on English as the common and accepted language. The value of solo reports and group reporting is also questionable.	Disagree. The language of the group ORSA should be agreed by the supervisor where the entity responsible for fulfillment of governance requirement at group level is licenced.
762.	Insurance and Reinsurance Stakeholder Group (IRSG)	2.66	These paragraphs should not be applicable for undertakings which are in the internal model pre-application process as the assessment of the deviations from the standard formula is part of this process and especially the application process itself.	Disagree; but new assessments are not being requested; cross-references to the pre-application process can be made.
764.	Insurance and Reinsurance Stakeholder Group (IRSG)	2.67	See 2.66	Disagree; but new assessments are not being requested; cross-references to the pre-application process can be made.
767.	Insurance and	2.68	See 2.66	See new wording

	Reinsurance Stakeholder Group (IRSG)			
768.	Insurance and Reinsurance Stakeholder Group (IRSG)	2.69	See 2.66	See comment 764
771.	Insurance and Reinsurance Stakeholder Group (IRSG)	2.70	See 2.66	See comment 764
775.	Insurance and Reinsurance Stakeholder Group (IRSG)	2.71	<p>The use of the standard formula and the respective results should not be a common part of the ORSA for undertakings in the pre-application process for an internal model, neither for the preparatory phase nor for future ORSA guidelines. Especially the resources for this additional effort should be better used in the pre-application process of Internal models (also compare the respective interim measure on pre-application) in order to best prepare for Solvency II which is the aim of the preparatory phase. However, we agree that undertakings cannot rely on their internal model being approved so that the standard formula has to be seen as the fallback solution (also part of interim measure on pre-application). Nevertheless, the analysis of the difference between Internal Model and Standard Formula results is part of the internal model application anyway.</p>	<p>EIOPA expects undertakings, if using the internal model under pre-application for the assessment of the continuous compliance with regulatory capital requirements, to be able to demonstrate that they are preparing for the eventuality as explained in Guideline 1 of Pre-application Guidelines.</p> <p>Cross references between assessments for the internal model approval and FLAOR can be made in order to avoid double bordering.</p>
778.	Insurance and	2.72	See 2.71	See comment 775 and

	Reinsurance Stakeholder Group (IRSG)			new wording
780.	Insurance and Reinsurance Stakeholder Group (IRSG)	2.73	See 2.71	See comment 775