



EIOPA-BoS-14/229

27 November 2014

**Cover note for the draft consultation papers on the Guidelines and ITS for Solvency II (set 2)**

## **1. Introduction**

- 1.1. EIOPA invites comments from stakeholders on the second set of Guidelines and Implementing Technical Standards and their Impact Assessment for Solvency II.
- 1.2. Comments are due by 2 March 2015, using the template provided on EIOPA's website. Comments on the "Call for Advice on recovery plan, finance scheme and supervisory powers in deteriorating financial conditions" are due by 18 February.
- 1.3. EIOPA has developed the Guidelines and Implementing Technical Standards based on Directive 2009/138/EC (hereafter "Solvency II"), as amended by the Omnibus II Directive, and the provisional Implementing Measures.<sup>1</sup>

## **2. Nature of Guidelines**

- 2.1. Guidelines are non-binding instruments drafted by EIOPA addressed to National Competent Authorities (NCAs) or Financial Institutions, with the aim of ensuring the common, uniform and consistent application of Union law as well as with a view to establishing consistent, efficient and effective supervisory practices in accordance with Article 16 of the Regulation establishing EIOPA.<sup>2</sup> They shall be in line with the empowering regulation and implementing measures which the Guidelines are aiming to clarify.
- 2.2. The NCAs shall make every effort to comply: within a period of two months following the issuance of the Guidelines, they shall report to EIOPA whether they comply, intend to comply or do not comply with the Guidelines. When reporting non-compliance, the NCA shall state the reasons for this non-compliance. EIOPA publishes the replies; the reasons for non-compliance are only published on a case-by-case basis.
- 2.3. EIOPA has the obligation to list in its Annual Report the NCAs that reported non-compliance as well as the measures to be taken. A report on the compliance will be sent to the European Commission, Parliament and Council.
- 2.4. As for any policy development tool EIOPA conducts a public consultation, performs a cost and benefit analysis (Impact Assessment) and consults the relevant Stakeholder Group for their opinion.

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<sup>1</sup> As published by the European Commission on 10 October 2014:  
[http://ec.europa.eu/internal\\_market/insurance/docs/solvency/solvency2/delegated/141010-delegated-act-solvency-2\\_en.pdf](http://ec.europa.eu/internal_market/insurance/docs/solvency/solvency2/delegated/141010-delegated-act-solvency-2_en.pdf)

<sup>2</sup> Regulation (EU) no 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority).

- 2.5. Following the public consultation EIOPA intends to adopt the final Guidelines, which would then be translated and published on its website.

### **3. Nature of Implementing Technical Standards**

- 2.6. Implementing Technical Standards are regulatory tools drafted by EIOPA in accordance with Article 15 of the Regulation establishing EIOPA.<sup>3</sup>
- 2.7. Generally, technical standards are drafted based on a specific delegation or empowerment from the Commission in the relevant legislative act (for example, the OMDII Directive modifying the existing Solvency II Directive). This empowerment often includes a deadline by when EIOPA shall have the technical standard finalised.
- 2.8. Implementing Technical Standards are meant to be technical, not to imply strategic decisions or policy choices and their scope and content shall be limited by the specific empowerment. Implementing Technical Standards will mostly aim at defining the forms, templates and procedures for specific areas under regulation. The technical standards shall be in line with the empowering regulation and delegated acts.
- 2.9. As for any regulatory tool EIOPA will conduct a public consultation, perform a cost and benefit analysis (Impact Assessment) and consult the relevant Stakeholder Group for their opinion.
- 2.10. The final draft Implementing Technical Standard shall be endorsed by the Commission, who informs European Parliament and Council. The Commission has the ability amend or reject the proposed Implementing Technical Standards, within a period of 3 months. EIOPA can submit a new draft within a deadline of 6 weeks following the feedback from the Commission.
- 2.11. Once the technical standard is endorsed by the Commission, the Commission will translate and publish the technical standards. The implementing technical standard will be part of the implementing measures and become binding legislation.

### **4. Structure of the Consultation Papers**

- 2.12. Papers are being consulted on in the following areas: Pillar 1 (Quantitative requirements), Pillar 2 (Governance and Supervision) and Pillar 3 (Reporting and Disclosure).

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<sup>3</sup> Regulation (EU) no 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority).

2.13. In the area of Pillar 1, following areas are being consulted on:

- Guidelines on the valuation of assets and liabilities;
- Guidelines on the implementation of the long term guarantee measures
- Implementing Technical Standard on the list of regional governments and local authorities;
- Implementing Technical Standard on the index for the equity dampener;
- Implementing Technical Standard on the currency shock for currencies pegged to the EURO;
- Implementing Technical Standard on the standard deviations for health insurance obligations subject to health risk equalisation systems (HRES);
- Implementing Technical Standard on the equity charge transitional.

2.14. In the area of Pillar 2, following areas are being consulted on:

- Guidelines on the extension of the recovery period;
- Implementing Technical Standard on procedures when assessing external credit assessments;
- Implementing Technical Standard on supervisory transparency and accountability;
- Implementing Technical Standard on capital add-on.

2.15. In the area of Pillar 3, following areas are being consulted on:

- Guidelines on methods to determine the market share for the purpose of exemptions to supervisory reporting;
- Guidelines on reporting for financial stability purposes;
- Guidelines on reporting and disclosure;
- Guidelines on exchange of information on a systematic basis within colleges;
- Implementing Technical Standard on the templates for the submission of information to the supervisory authorities;

- Implementing Technical Standard on procedures, formats and templates of the Solvency and Financial Condition Report.

2.16. In addition, EIOPA is consulting on Guidelines on the supervision of third country branches and on Technical advice for a Regulatory Technical Standard on articles 138, 139, 141 SII.

## **5. Key features of the Consultation Papers**

### **Pillar I – Quantitative requirements**

#### Guidelines on the valuation of assets and liabilities

- Objective: further guidance on the use of IFRSs for the purposes of a market-consistent valuation;
- Main elements: spell out which IFRSs are applicable, guidance on alternative valuation methods, materiality and proportionality considerations.

#### Guidelines on the implementation of the long term guarantee adjustments and transitional measures

- Objective: convergence of practices across Member States in implementing Long Term Guarantee adjustments (volatility adjustment, the matching adjustment) and transitional on the risk-free interest rates and on the technical provisions;
- Main elements: interactions of the Long Term Guarantee adjustments and transitional measures with the standard formula, the Minimum Capital Requirement, calculation of future discretionary benefits and risk margin where these adjustments and measures are used

#### Implementing Technical Standard on the list of regional governments and local authorities

- Objective: Solvency II stipulates that direct exposures to regional governments and local authorities listed in the ITS are to be treated as exposures to the central government. This means that such governments and authorities would also benefit from a reduced charge (i.e. the charge applied for government bonds, 0% risk factor);
- Main elements: list of entities with same treatment as central governments in market and counterparty default risk module and the justification of their listing based on validation such as revenue-raising power and specific institutional arrangements.

#### Implementing Technical Standard on the index for the equity dampener

- Objective: to define the equity index which will serve as the basis for the calculation of symmetric adjustment of the equity capital charge to cover the risk arising from changes in the level of equity prices;
- Main elements: Index components and weights.

#### Implementing Technical Standard on the currency shock for currencies pegged to the EURO

- Objective: for currencies that are “pegged” to the euro (i.e. a fixed exchange rate exists between the currency and the euro) assets and liabilities can be subject to the same treatment as euro-denominated assets and liabilities, under certain conditions. The ITS shall determine the currency shocks for currencies pegged to euro;
- Main elements: Check whether pegging arrangement is sufficiently stable and calibration of the shocks.

#### Implementing Technical Standard on the standard deviations for health insurance obligations subject to health risk equalisation systems (HRES)

- Objective: HRES provide for risk-adjusted premium subsidies through financial transfers between different risk categories, with the aim of preventing increasing costs on insurers for particular subgroups of insured people. Under Solvency II, health insurance obligations subject to HRES shall be identified, managed and organised separately from the other activities of the insurance undertakings, without any possibility of transfer to health insurance obligations that are not subject to HRES. The aim of the ITS is to provide standard deviations for HRES;
- Main elements: the standard deviations.

#### Implementing Technical Standard on the equity charge transitional

- Objective: for equities bought on or before 1 Jan. 2016, the standard equity charge for type 1 (listed) equities that are not subject to the duration based equity charge, can be gradually implemented (reduced equity charge until 2023, linear increase). The ITS shall provide guidance on the application of equity transitional;
- Main elements: documentation requirements.

### **Pillar II – Governance and Supervision**

#### Guidelines on the extension of the recovery period

- Objective: consistent supervisory action in exceptional adverse situations;

- Main elements: careful use of NSA power to extend the recovery period; Extensions and revocations of extensions are possible where the external situation evolves in an unexpected way; Supervisory cooperation in group context important.

#### Implementing Technical Standard on procedures when assessing external credit assessments

- Objective: in line with the overall aim to reduce reliance on ratings, the procedures to be used when (re)-assessing external credit assessments;
- Main elements: role of risk management function, no complete re-assessment is needed.

#### Implementing Technical Standard on Transparency and accountability

- Objective: ensure convergence disclosure by NSAs and comparability of disclosed information;
- Main elements: formats for aggregate statistical data and disclosure of use of MS options; General structural requirements for information for which the use of formats is not appropriate.

#### Implementing Technical Standard on capital add-on

- Objective: ensure uniform conditions of application (process) of the setting of a capital add-on by the NSA;
- Main elements: notification to undertaking before a capital add-on is set; Calculation may involve input from undertaking; Review whether capital add-on can be removed outside of the time frame agreed on beforehand between supervisor and undertaking in case of clear indication of relevant changes.

### **Pillar III – Reporting and disclosure**

#### Guidelines on methods to determine the market share for the purpose of exemptions to supervisory reporting

- Objective: article 35 (6) and (7) and Article 254 of the Directive state that NSAs may exempt from reporting on an item-by-item basis and limit regular supervisory reporting if the undertakings “*do not represent more than 20% of a MS;s life and non-life insurance and reinsurance market respectively, [...]*”. The ITS shall specify the methods to be used when determining the market shares;

- Main elements: definition of the scope of the market to be considered and how to calculate life and non-life market share, treatment of composites undertakings.

#### Guidelines on Financial Stability Reporting

- Objective: based on article 35 of the EIOPA Regulation, which stipulates that "*Competent authorities shall provide [EIOPA] with all the necessary information to carry out the duties assigned to it [...]*", the GUIDELINES shall ensure a consistent and relevant approach on the collection of data for financial stability purposes;
- Main elements: quarterly reporting of key data: shorter deadlines than prudential reporting (6 w., also for groups), templates extracted from prudential templates (focus on asset-side and balance sheet data), plus limited number of additional items (e.g. profit and loss).

#### Guidelines on reporting and disclosure

- Objective: further details as to what supervisory authorities should expect from undertakings and groups with regards to supervisory reporting and public disclosure;
- Main elements: the content of the RSR, SFCR and the group SFCR/RSR; validations to be applied to the data submitted to the supervisory authorities using the quantitative reporting templates; reporting in the case of predefined events; undertaking's own processes for public disclosure and supervisory reporting.

#### Guidelines on exchange of information on a systematic basis within colleges

- Objective: to support the functioning of colleges, appropriate information needs to be exchanged in the college. The Guidelines provide a convergent and proportionate measure for exchanging relevant information, based mainly on the regular supervisory reporting and solvency and financial condition reports, within colleges, to achieve the understanding of group-wide risks;
- Main elements: the list of items which should be considered by the colleges when deciding on the scope of information to be exchanged within the college; the criteria which supervisory authorities should consider in order to decide the scope of information to be exchanged. The scope of information to be exchanged on a systematic basis was intended originally to be regulated by the implementing technical standard, but the final proposal is to address this particular issue in the guidelines.



### Implementing Technical Standard on the templates for the submission of information to the supervisory authorities

- Objective: templates to be submitted by (re)insurance undertakings and participating (re)insurance undertakings or insurance holding companies to competent authorities when submitting information to the NSAs;
- Main elements: individual reporting, groups reporting (general) and reporting of risk concentration and intra-group transactions in particular; list of information to be reported, including the templates and LOGs as annexes for day-1 reporting, quarterly submissions and annual submissions; Simplifications allowed on quarterly reporting.

### Implementing Technical Standard on procedures, formats and templates of the Solvency and Financial Condition Report

- Objective: define the procedures, formats and templates for the public disclosure by (re)insurance undertakings and participating (re)insurance undertakings or insurance holding companies for the Solvency and Financial Condition Report on a regular basis; and on ad-hoc following major development affecting significantly the relevance of the information disclosed;
- Main elements: individual and group SFCR, means of disclosure of the group SFCR and single SFCR; list of information to be disclosed using harmonised formats, including the templates and LOGs as annexes.

### Guidelines on the supervision of third country branches

- Objective: proportionate methods of supervision in order to ensure the same level of protection for EEA policyholders of a 3CB;
- Main elements: authorisation of a branch: conditions on the margin of solvency and the distribution of branch assets in case of winding-up; supervisory powers; financial soundness of the branch; governance and risk management: same rules as in the system of governance and supervisory reporting.

### Technical advice for a Regulatory Technical Standard on articles 138, 139, 141 SII

- Objective: harmonisation of supervisory practices in the relating to the breaches of the SCR and MCR and the supervisory powers in the situation of further deterioration of the financial conditions of the undertaking;
- Main elements: specification of information listed in Article 142 (1), max. reference to reporting templates; Specification of additional information;

Potential supervisory measures in case of deteriorating financial conditions.