



## **Background information about Guidelines on preparing for Solvency II**

### **1. Why is EIOPA issuing Guidelines?**

The Guidelines follow EIOPA's Opinion on interim measures regarding Solvency II published on the 20 December 2012 in which EIOPA sets out its expectations that National Competent Authorities (NCAs), by way of preparing for the new system, put in place important aspects of the prospective and risk based supervisory approach to be introduced by Solvency II.

In the Opinion, EIOPA committed to publish Guidelines addressed to NCAs on how they should meet the expectations described in the Opinion.

### **2. What are the changes the public consultation brought to the Guidelines?**

#### ***Guidelines on System of Governance***

Several stakeholders argued that the tasks of the actuarial function are only relevant for the submission of preparatory information to the NCA during the preparatory phase as there is no framework for the valuation of technical provisions due to the status of OMDII negotiations. They requested that for this reason there should be fewer requirements regarding data quality, testing against experience and reporting to the Administrative Management and Supervisory Body (AMSB).

**Change:** EIOPA will include that the Actuarial Function during the preparatory phase should focus on data and methodologies, and not on valuation as this is linked to the ongoing OMDII negotiations.

### ***Guidelines on Forward Looking Assessment of Own Risks (based on the ORSA principles)***

The majority of stakeholders criticised the requirements to assess a) the continuous compliance with SCR and Technical Provisions and b) the assessment of significance of the deviation of their risk profile from the assumptions underlying the SCR calculation according to the standard formula, since both require Pillar I calculations and projections ahead of the implementation date of Solvency II. Some stakeholders argued that EIOPA should wait for the political process on Pillar I elements to be finalised in the OMD II negotiations.

**Change:** the actual performance of the assessments of a) and b) above will be postponed to 2015. This is because the Technical Specifications reflecting the OMDII agreement and the Implemented Acts will possibly be issued in the course of 2014.

### ***Guidelines on Submission of Information to National Competent Authorities***

#### *Group solvency calculation methods*

Several stakeholders commented that the combined effect of the guidelines is that, if the Group Supervisor and the concerned supervisors agree on the use of the Deduction and Aggregation (D&A) method, then third countries can be included via D&A into the Group balance sheet on the assumption that the third country is equivalent. Although this assumption of equivalence is helpful, it is dependent upon the D&A method decision which lies with the Group supervisor and is therefore uncertain.

They claimed that the European Commission and supervisors have already set the expectation that major third countries will be equivalent. It would create a simpler and more streamlined approach if all third countries were automatically included on an equivalent basis using the D&A method for the purpose of these guidelines.

**Change:** To avoid pre-empting future decisions from the European Commission on equivalence, or from NCAs on consolidation methods once Solvency II becomes applicable, EIOPA will incorporate in the Guidelines a possibility for the group to decide which method it would apply during the

preparatory phase for the calculation of its group solvency with regard to third country undertakings. The Group should make its decision after having considered the outcome of a dialogue with the group supervisor on the method of calculation. EIOPA expects insurance groups to follow the outcome of the dialogue with the group supervisor. In any case the insurance group will be required to explain to the group supervisor the rationale for deviating from the outcome of the dialogue when commencing its solvency calculations for the preparatory phase. The outcome of the dialogue and the actual method used for solvency calculation are however without prejudice to the decision of the group supervisor on the calculation method once Solvency II becomes applicable.

*No submission of information as of Quarter 4 2015*

Several stakeholders claimed that undertakings will be working on current reporting requirements (Solvency I), listing reporting requirements, and Solvency II preparatory Guidelines reporting requirements within overlapping timeframes. In addition to the Quarter 4 of 2015 reporting, undertakings would also need to report information on the initial date of application of Solvency II. A re-scheduling of the deadlines for submission of information would allow undertakings to use resources more efficiently, i.e. submitting preparatory reporting during off – cycle period.

**Change:** EIOPA has considered all arguments put forward by stakeholders and believes that the submission of one quarter (Quarter 3) should be sufficient for the preparation for Solvency II, especially taking into consideration the day-1 reporting. As for the deadlines, EIOPA believes it is crucial that undertakings and groups prepare for the quarterly submission of information considering the deadlines that they will have to comply with.

*Reporting deadlines for annual reporting extended by two weeks*

Many stakeholders welcomed the fact that EIOPA's intention is to have only one annual submission of information during the preparatory phase. However, they requested a delay in the submission dates. Some stakeholders mentioned that existing Solvency I based reporting requirements will overlap in timing with the preparatory ones.

**Change:** EIOPA has considered all arguments put forward and considers it reasonable to include an extension of 2 weeks for the preparatory phase in the annual submission deadline for both solo and groups in the preparatory phase,

i.e. a deadline for submission to NCAs of 22 weeks for solo and 28 weeks for groups after year end.

*Proportionality and simplifications in Reporting, including Technical Provisions and Captives*

Many stakeholders have requested further clarity on proportionality in particular in Submission of Information.

**Change:** For the purposes of the quarterly reporting of the balance sheet, except for technical provisions, materiality in relation to the quarterly report data needs to be assessed. In making assessments of materiality, it is now recognised more explicitly by EIOPA that quarterly measurements may need to rely on estimates and estimation methods to a greater extent than measurements of annual financial data. Nonetheless, the measurement procedures for the quarterly reporting have to be designed to ensure that the resulting information is reliable and comply with the Solvency II standards and that all material information that is relevant for the understanding of the data is reported.

For calculation of the technical provisions, in particular for the purpose of quarterly reporting, it is included that undertakings may rely on simplified methods in the calculation of the risk margin and best estimate, as elaborated in EIOPA Guidelines.

EIOPA has also considered the specific case of insurance and reinsurance captives, in particular in relation to the quarterly submission of information. EIOPA believes that the preparatory phase should be in line with the final Solvency II framework but also have a phasing in nature. Taking this into consideration EIOPA will include allowing NCAs to exempt, in case any captive is covered by the market share applied, insurance and reinsurance captives from the submission of information in Quarter 3 of 2015. Insurance and reinsurance captives do need to submit the annual information and should be considered in the calculation of the market share.

EIOPA highlights that this solution for the quarterly reporting does not pre-empt any future solution to be applied under Solvency II for the quarterly submission

of information by insurance and reinsurance captives under the Solvency II regime.

### *Guidelines on Pre-application for Internal Models*

Many stakeholders have commented that insurers should not need to submit both internal model and standard formula forms. They claim that the submission of the SCR calculation using the standard formula under the regular reporting would require such undertakings to build systems to report these data, which would be obsolescent under Solvency II when their internal models are subsequently approved.

**Change:** insurance undertakings engaged in a pre-application process for Internal models will need to agree with the NCAs the submission related to the standard formula and its level of granularity.

### **3. Why is EIOPA issuing Guidelines on Solvency II prior to agreement of the Omnibus II Directive (OMDII)?**

EIOPA believes that it is vital for joint and consistent preparatory actions to be taken at a European level, in order to support the good functioning of the internal market. Otherwise, in the absence of agreement on OMDII, there is a risk that supervisors will adopt their own solutions at a national level in order to ensure sound, risk sensitive supervision. That will in turn increase the difficulty of, and reduce the benefits from, the introduction of the harmonised approach reflected in Solvency II.

### **4. To whom are the Guidelines addressed?**

The Guidelines are addressed to NCAs that are competent under the Solvency II Directive.

### **5. Do NCAs have to comply with the Guidelines?**

According to the EIOPA Regulation, NCAs must make every effort to comply with the Guidelines.

EIOPA, however, 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.

If an NCA does not comply or does not intend to comply with a Guideline then it must inform EIOPA stating its reasons for not complying.

## **6. What does compliance mean? Are NCAs expected to enforce the Guidelines?**

NCAs have to inform EIOPA whether they comply or intend to comply with each individual guideline. Where the NCAs report their compliance or intention to comply, EIOPA expects the NCAs to provide information about the measures taken at national level.

It is for NCAs to determine how to comply with EIOPA Guidelines by incorporating them into their regulatory or supervisory framework in an appropriate manner. For this purpose it might be necessary, for instance, to amend their legal framework or their supervisory rules, practices or guidance. EIOPA believes that binding national legislation does not necessarily have to be introduced in order to comply with the outcome specified in a Guideline, but it may be necessary in certain cases, depending on the national legal framework.

## **7. What is expected of NCAs in practice?**

The measures set out in the Guidelines are preparatory for Solvency II. 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 in these Guidelines, so that when Solvency II is applicable, its requirements can be fully complied with. In turn, NCAs will be expected to set up the necessary procedures to enable them to review and evaluate the quality of the information provided to them, and it is likely to be appropriate to discuss with undertakings the progress being made.

NCAs are therefore expected to comply with the Guidelines by ensuring that undertakings meet the specified outcomes. The Guidelines do not, however, require NCAs to take supervisory action as a result of a failure by undertakings to comply with Solvency II requirements, including the pillar one requirements.

## **8. How will the Guidelines affect undertakings?**

The Guidelines are addressed to NCAs, but with the expectation that they ensure that undertakings take steps towards implementing the relevant aspects of the regulatory framework addressed in these Guideline.

This means that by way of preparing for Solvency II, undertakings can expect to have to demonstrate that they are taking steps towards implementing the requirements on the system of governance, to submit a forward looking assessment of their own risks by way of preparing for the ORSA requirements, and to submit information to NCAs by way of preparing to meet the report requirements under Solvency II.

For those undertakings that are engaged in pre-application for an internal model, undertakings will continue to work with NCAs, so that the NCAs can form a view on the undertakings' degree of readiness.

## **9. How will EIOPA monitor the effectiveness of the Guidelines?**

EIOPA intends for NCAs to separately send to EIOPA an annual progress report on the application of these Guidelines. The report will outline the progress made to apply the Guidelines and to prepare in the relevant aspects of the Solvency II framework addressed in the Guidelines.

## **10. When do the Guidelines apply from?**

According to EIOPA regulation, since the publication of the Guidelines NCAs will have a period of two months to confirm whether they comply or intend to comply with the Guidelines. This should allow NCAs to put in place, applying from 1 January 2014, certain important aspects of the prospective and risk based supervisory approach to be introduced by the Solvency II Directive.

NCAs and undertakings are expected to progress in their preparedness for Solvency II over time during the course of the preparatory phase. The Guidelines therefore allow for a 'phasing in' approach for some of the provisions in the Guidelines.

## **11. What is meant by a phasing-in approach?**

Phasing-in means both a flexible approach towards the timing for applying certain provisions in the Guidelines (specific phasing-in) and that NCA's expectations towards undertakings are intended to increase over time during the course of the preparatory phase (general phasing-in).

Specific 'phasing-in' applies only to the submission of information. EIOPA's approach is that for preparatory purposes the annual information is submitted once before Solvency II is applicable and the quarterly information is submitted in relation to the one quarter prior to the application of Solvency II. The dates set in the Guidelines for the submission of information are based on the assumption that the Solvency II Directive will be applicable on 1 January 2016. EIOPA will therefore review these dates based on the latest developments regarding the OMDII.

## **12. How is the proportionality principle considered in the Guidelines?**

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.

NCA's should also ensure that the provisions in the Guidelines are applied in a manner which is proportionate to the nature, scale and complexity inherent in the business of the insurance and reinsurance undertaking.

## **13. Why is EIOPA introducing thresholds that are not defined in the Solvency II Directive?**

The submission of information to supervisors and the forward looking assessment of the undertaking's own risks are areas where there is a significant change between the existing regulatory requirements and those to be introduced by Solvency II. EIOPA, therefore, believes that it is not appropriate for NCA's to expect that all the provisions in these areas are met in the same way by all undertakings during the preparatory phase.

It is important to underline that the thresholds have been designed for use during the preparatory phase. It does not indicate that requirements in these areas will not be in place for all undertakings, within the scope of the Solvency II Directive, once Solvency II is fully applied. EIOPA has also taken into consideration the latest discussions on OMDII with regard to reporting.

## **14. How will the Guidelines work within current regulatory framework (Solvency I)?**

The current European regulatory regime will remain applicable until it is repealed by the Solvency II Directive.

The Solvency II Directive has entered into force but it is not yet applicable. The objective of the Guidelines is to ensure the effective and meaningful preparation



for Solvency II, so that when Solvency II is applicable, its requirements can be fully complied with.

## **15. How will the Guidelines interact with Omnibus II?**

EIOPA is aware that at this stage, certain parts of the Solvency II Directive are to be revised by OMDII and the delegated acts have not yet been proposed by the European Commission. As a result, the Guidelines proposed are preparatory in nature and provide direct references to the corresponding provisions of the Solvency II Directive.

Nevertheless, EIOPA is also aware, that the Solvency II pillar one requirements will be determined by the OMDII and the delegated acts. Whilst these requirements are not within the scope of the Guidelines there is a connection between some of the areas covered by the Guidelines and the pillar one required to be introduced by Solvency II.

Subject to an agreement being reached on the OMDII, EIOPA would prepare technical specifications and provide guidance on the assumptions underlying the calculation of technical provisions and the standard formula calculation based on the decision on OMDII and the available delegated acts, in time for NCAs and undertakings to prepare to submit information in 2015.

However, as it is not guaranteed that there will be agreement on the OMDII sufficiently before the deadlines set out above, EIOPA will review the deadlines for the submission of information and the report on the forward looking assessment at the end of 2013 based on the latest developments with regard to the OMDII.