



EIOPA-CP-13/015
27 March 2013

**Cover note
for the Consultation
on Guidelines
on preparing for Solvency II**

1. Purpose

1.1. EIOPA intends to issue Guidelines addressed to National Competent Authorities (NCAs) on how they should prepare for the application of Solvency II. The Guidelines follow EIOPA's Opinion¹ on interim measures regarding Solvency II published on the 20 December 2012 (hereafter 'the Opinion'), within which EIOPA:

- 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.
- 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)² and the further delay to the application of Solvency II.
- Committed to publish Guidelines addressed to NCAs on how they should meet the expectations described in the Opinion.

Benefits of consistent preparation for Solvency II

1.2. The present EU supervisory regime is not sufficiently risk sensitive and is to be replaced by Solvency II. It is in the best interests of policyholders, insurers, and supervisors to build on the steps taken already to prepare for Solvency II. Without such preparation, there is a risk that momentum is lost and the benefits of the financial and human resources already devoted to the Solvency II project are dissipated.

1.3. 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, 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.

What is expected of National Competent Authorities?

1.4. 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

¹ [EIOPA Opinion on interim measures](#)

² Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directives 2003/71/EC and 2009/138/EC in respect of the powers of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority

defined and demonstrable progression towards it by both supervisors and undertakings. 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.

- 1.5. 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.

2. Nature of the Guidelines

- 2.1 The Guidelines are to be issued under Article 16 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 (hereafter the 'EIOPA Regulation') and support the corresponding provisions of Directive 2009/138/EC of the European Parliament and the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (hereafter 'Solvency II Directive').

Addressed to National Competent Authorities

- 2.2 The Guidelines are addressed to NCAs with the intention of promoting consistent, efficient and effective supervisory practices with respect to preparations for the application of the Solvency II Directive.

Compliance and reporting

- 2.3 According to Article 16(3) of the EIOPA Regulation NCAs 'shall make every effort to comply' with the Guidelines, and have two months following their issuance³ to confirm whether they comply or intend to comply with the Guidelines. The compliance report provided to EIOPA by NCAs should state whether they comply or intend to comply with each individual Guideline.
- 2.4 As stated in Article 16(3), 'in the event that a competent authority does not comply or does not intend to comply, it shall inform the Authority [EIOPA] stating its reasons'. Where the NCA reports their compliance or

³ The date of issuance of the Guidelines is the date on which the Guidelines are published in each of the official EU languages

intention to comply, EIOPA expects the NCA to provide information about the measures taken at national level.

- 2.5 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.
- 2.6 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. In this context, consideration should be given to the fact that the outcomes are for the preparation of Solvency II.

Follow up

- 2.7 In order for EIOPA to monitor the effectiveness of the Guidelines, NCAs should also separately send to EIOPA a progress report on the application of these Guidelines covering each year in which the Guidelines are applicable. The report should be submitted to EIOPA by the end of February following each relevant year of application of the Guidelines; the first report should be submitted by 28 February 2015 based on the period 1 January 2014 to 31 December 2014. EIOPA will not publicly disclose national reports.

Preparatory Guidelines

- 2.8 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.

Explanatory texts

- 2.9 Explanatory texts are made available on EIOPA's website. They provide additional information and examples which may be useful to stakeholders. The explanatory texts are not part of the Guidelines and hence are not subject to the comply-or-explain mechanism or part of the public consultation.

3. Scope and Contents

3.1 The Guidelines cover the areas of:

- System of governance (EIOPA-CP-13/08).
- A forward looking assessment of the undertaking's own risks (based on ORSA⁴ principles) (EIOPA-CP-13/09).
- Submission of information to NCAs (EIOPA-CP-13/10).
- Pre-application for internal models (EIOPA-CP-13/11).

3.2 These areas were highlighted in the Opinion and are fundamental to ensure effective preparation for Solvency II. It is also noted that many of the areas covered in the Guidelines, in particular on the system of governance, are also part of the Insurance Core Principles published by the International Association of Insurance Supervisors. These Principles represent a globally accepted framework and are the basis for the International Monetary Fund Financial Sector Assessment Program.

3.3 The sections below describe the main contents of the Guidelines in each of the above areas.

System of governance

3.4 The Guidelines cover the key areas needed to ensure an effective system of governance and thereby sound and prudent management of undertakings. Specifically, the Guidelines concern general governance, fit and proper requirements, risk management, the prudent person principle, governance of own funds, internal controls, internal audit function, actuarial function, outsourcing, and group specific governance requirements. The Guidelines develop the provisions on the system of governance set out in Articles 40 to 49 of the Solvency II Directive. With respect to the governance of own funds, the prudent person principle and the group specific aspects, the Guidelines are based on Articles 93, 132 and 246 respectively of the Solvency II Directive.

Forward looking assessment of the undertaking's own risks

3.5 In July 2012 EIOPA published a Final Report regarding the consultation on draft Guidelines on the ORSA to be conducted in order to meet the requirements specified by Articles 45 and 246 (on group specific aspects) of the Solvency II Directive.⁵ The Guidelines proposed in this consultation

⁴ Own Risk and Solvency Assessment

⁵ [Proposal for guidelines on own risk and solvency assessment](#)

are consistent with those draft Guidelines, but have been amended to reflect the nature of the preparatory phase.

- 3.6 The forward looking assessment of the undertaking's own risks covers three main aspects:
- Assessment of overall solvency needs.
 - Assessment of whether the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements regarding the calculation of technical provisions.
 - Assessment of deviations from the assumptions underlying the solvency capital requirement calculation.
- 3.7 It is proposed that NCAs request that undertakings and groups submit a report of the forward looking assessment to the NCA within two weeks of the undertaking having concluded their assessment.

Submission of information to NCAs

- 3.8 In July 2012, EIOPA published a Final Report following a consultation on draft Solvency II reporting and disclosure requirements, together with a complete set of quantitative reporting templates⁶.
- 3.9 The Guidelines set out in this consultation propose that NCAs request from undertakings and groups information for a subset of the reporting templates and of the narrative reporting to be required under Solvency II. They are based on Articles 35 and 254 of the Solvency II Directive. With regard to the reporting templates the subset consists of information on balance sheet, assets and technical provisions, own funds, Solvency Capital Requirement, Minimum Capital Requirement and the scope of the group, for which in each of these categories the most important templates have been selected.
- 3.10 A subset of the most important templates and items is considered to be appropriate and reflective of the preparatory purpose of the Guidelines. The intention is for NCAs and undertakings to put in place and test the systems that will be needed to comply with Solvency II reporting requirements, and to analyse and improve over time the quality of data produced.
- 3.11 Under Solvency II, undertakings and groups will be required to submit information on a quarterly as well as annual basis. Specific systems and processes will need to be set up for quarterly reporting reflecting the

⁶ [Draft proposal for guidelines on narrative public disclosure, supervisory reporting, predefined events and processes for reporting disclosure](#)

higher frequency and different timeframes. Consequently for the preparatory phase to be fully effective it is appropriate to include quarterly submissions as well, so that undertakings and groups are in a position to report high quality data on a quarterly basis once Solvency II is applicable.

- 3.12 The European Central Bank (ECB) is also preparing to request data from insurance and reinsurance undertakings for the purposes of market monitoring and financial stability analysis, and to serve the needs of the European Systemic Risk Board.⁷ EIOPA has worked in close co-operation with the ECB with the intention of ensuring that the reporting package proposed in these preparatory Guidelines is sufficient for the ECB's purposes and thereby limit the burden on undertakings.
- 3.13 The relevant supporting documentation for the submission of information using XBRL taxonomy is made available on EIOPA's website. Whilst the Guidelines do not require the use of this taxonomy as part of the preparation for Solvency II, NCAs may already wish to use the taxonomy developed by EIOPA.

Pre-application for Internal models

- 3.14 In an application for approval of an internal model undertakings and groups must demonstrate that they meet the requirements set out in the Solvency II Directive, in particular Articles 112, 113, 115, 116, 120 to 126, 230 and 231. The aim of the pre-application process is for NCAs to form a view on how prepared the undertaking is to submit an application to use an internal model for the calculation of Solvency Capital Requirements when Solvency II is applied.
- 3.15 The pre-application process has been underway for a number of years. Guidance was previously published by CEIOPS on the pre-application process in March 2010.⁸ EIOPA believes that it is important for there to be detailed guidance in this area, in view of the complex techniques involved in internal modelling. The Guidelines proposed on pre-application cover most aspects of the internal model framework, including model changes, use test, expert judgement, methodological consistency, probability distribution forecast, profit and loss attribution, calibration approximations, validation, documentation, external models and data, and the functioning of colleges.
- 3.16 The Guidelines aim to increase convergence of supervisory practices. They should also in turn help undertakings to develop their internal model framework and thereby prepare to submit a final application. NCAs should

⁷ In accordance with Council Regulation (EC) No 951/2009

⁸ [CP80/CEIOPS-DOC-76-10-Guidance-pre-application-internal-models](#)

provide feedback to undertakings on the reviews they carry out on the internal model for the purposes of pre-application.

4. Approach

4.1 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' and for the use of thresholds. NCAs are able to go beyond the provisions in the Guidelines, if that is appropriate for their local circumstances, and to the extent that it is consistent with Union law. However, the benefits of a convergent approach should not be overlooked.

Proportionality

4.2 NCAs 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'.⁹ 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:

- In most cases, the Guidelines are principle based or drafted with a view to the outcome or supervisory objective that should be met.
- 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. [See section on *Scope and Contents* for further details]

'Phasing-in'

4.3 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'.¹⁰ It is important to emphasise the word "starting": NCAs and undertakings are expected to progress in their preparedness for Solvency II over time during the course of the preparatory phase. This 'phasing-in' approach applies both in a specific manner and in a general manner as explained below.

Specific 'phasing-in'

4.4 Specific 'phasing in' applies to the Guidelines on the submission of information using the set of quantitative reporting items. EIOPA understands that undertakings will need time to establish the appropriate

⁹ EIOPA Opinion, paragraph 27

¹⁰ EIOPA Opinion, paragraph 16

internal processes and IT systems. 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 two quarters prior to the application of Solvency II. Based on the assumption that the Solvency II Directive will be applicable on 1 January 2016, the relevant guidelines therefore state that:

- For the annual submission, the first set of data will be expected in 2015 on the year end data from 2014. The deadline is 20 weeks for solo undertakings and 26 weeks for groups.
- For the quarterly submission, the first set of data will be expected from Q3 of 2015. The deadline is 8 weeks for solo undertakings and 14 weeks for groups.

4.5 These submission dates will be reviewed at the end of 2013 based on the latest developments with regard to OMDII.

General 'phasing-in'

4.6 General 'phasing-in' applies with respect to the expectations that NCAs have for the progress made by undertakings in the other areas covered by the Guidelines. In particular, NCAs are entitled to have different expectations towards undertakings for the forward looking assessment produced in 2015 as compared with that produced in 2014. Similarly, the supervisory expectations for the evidence provided by undertakings to demonstrate that appropriate steps are being taken to implement the different aspects of an effective system of governance are expected to be higher in 2015 than they are in 2014. With regard to internal models, national supervisors, and especially colleges of supervisors, are expected to continue to work with undertakings on an ongoing basis during the pre-application process and to plan appropriately to form a view on the undertaking's readiness to submit an application. This applies, in particular, when undertakings expect to submit applications for a decision on the use of an internal model from the first day on which Solvency II is applicable.

Approach to small and medium-sized undertakings – the use of thresholds

4.7 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 NCAs 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.

- 4.8 With regard to the forward looking assessment, it is considered appropriate for NCAs to request that all undertakings conduct an assessment of their overall solvency needs, but given the greater complexity associated with the other two principal aspects of the assessment, a threshold is proposed for these two aspects.¹¹ It is also not appropriate for NCAs to expect undertakings or groups, which are in the pre-application process for the approval of an internal model, to perform the assessment of deviations from the assumptions underlying the solvency capital requirement calculation.
- 4.9 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. Consequently for those undertakings that are not within the thresholds, NCAs are still expected to ensure that these undertakings begin to prepare and develop appropriate plans.
- 4.10 EIOPA intends for a high proportion of the market to be subject to 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, and seeks to ensure that the thresholds for the preparatory phase do not apply to a greater share of the market than can be expected when Solvency II is applied.
- 4.11 The following thresholds are proposed:
- (i) A minimum coverage by NCAs of 80% of the market share in each Member State. NCAs should ensure that those undertakings to which the threshold applies are subject to the provisions on:
- Solo annual set of quantitative reporting items.
 - The assessment of whether the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements regarding the calculation of technical provisions at solo level.
 - The assessment of deviations from the assumptions underlying the solvency capital requirement calculation at solo level where the undertaking is not in the pre-application process for the approval of an internal model.

¹¹ See section on *Scope and Contents*; these aspects are (1) an assessment of whether the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements regarding the calculation of technical provisions and (2) an assessment of deviations from the assumptions underlying the solvency capital requirement calculation.

(ii) A minimum coverage by NCAs of 50% market share in each member state. NCAs should ensure that those undertakings to which the threshold applies are subject to the provisions on:

- Solo quarterly set of quantitative information.

(iii) A threshold of €12 billion of total assets, or the equivalent amount in another national currency. NCAs should ensure that those groups to which the threshold applies, and additionally other groups,¹² are subject to the provisions on:

- Groups annual and quarterly set of quantitative information.
- The assessment by the group of whether the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements regarding the calculation of technical provisions.
- The assessment by the group of deviations from the assumptions underlying the solvency capital requirement calculation where the group is not in the pre-application process for the approval of an internal model.

Connection to pillar I Solvency II requirements

4.12 There is a connection between the areas covered by the Guidelines and the pillar one requirements to be introduced by Solvency II, which are not within the scope of the Guidelines. This means that in order for these Guidelines to be applied, undertakings will need to calculate the balance sheet, including technical provisions, and determine their solvency position under pillar one requirements. This connection applies in particular to:

- The quantitative and qualitative information to be submitted to NCAs on the calculation of pillar one requirements.
- Aspects of the actuarial function, including calculation and validation of certain balance sheet items, such as technical provisions.
- Aspects of the prudent person principle, with regard to the investment of assets.
- With regard to the forward looking assessment, the assessment of whether the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements

¹² If in a Member State no group with headquarters in its territory falls under the threshold, the NCA should decide if any group headquartered in its territory should submit the set of annually or quarterly quantitative information considering at least the nature, scale and complexity of the risks inherent to the business of group and its significance in the local market.

regarding the calculation of technical provisions; and the assessment of deviations from the assumptions underlying the solvency capital requirement calculation.

- 4.13 As stated in the section on *Purpose*, the Guidelines are preparatory. They do not require NCAs to take supervisory action as a result of the information provided to them on the undertaking's solvency position, and in particular a failure by undertakings to comply with Solvency II pillar one requirements. Nevertheless, EIOPA considers that there are benefits to undertakings and NCAs for the calculation of pillar one requirements to be carried out in a way that is consistent across the EU and which, as far as possible, reflects the final Solvency II position.
- 4.14 The final pillar one 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 by the end of 2014 and of quantitative and qualitative information in 2015. In which case, at that stage, EIOPA would prepare technical specifications and provide guidance on the assumptions underlying the calculation of technical provisions and the standard formula calculation, which reflect the decision on OMDII and the available delegated acts.
- 4.15 However, as this assumption is based on the OMDII negotiations and the availability of the delegated acts, 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.

5. Timing and next steps

- 5.1 EIOPA intends to publish the Guidelines in the areas covered by this consultation in the autumn of this year. 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, as stated in the Opinion.
- 5.2 The Guidelines are intended to apply for the duration of the preparatory phase.