

**Comments Template on the proposal for
Guidelines on facilitating an effective dialogue between competent
authorities supervising insurance undertakings and statutory auditor(s)
and the audit firm(s) carrying out the statutory audit of those
undertakings**

**Deadline
26 April 2016
23:59 CET**

Name of Company:	EIOPA Insurance and Reinsurance Stakeholder Group	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP16-002@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the paragraphs refers to Consultation Paper on the proposal for implementing technical standards on special purpose vehicles.</p>		
Reference	Comment	
General Comment	<p>We are pleased to see that EIOPA is aiming to enhance the dialogue between auditors and insurance supervisors and we strongly support this goal. It would be of benefit for all parties involved, both supervisors and auditors, as well as preparers.</p> <p>.Nevertheless, it would be welcome if EIOPA could clarify that undertakings should always be the primary source of information.</p>	

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Introduction		
1.1	1.1 points out the purpose of strengthening supervision. We recommend including an additional objective of promoting high-quality audits and explaining how competent authorities should support this objective in their communication with auditors. The guidelines may clarify that, auditors cannot relieve supervisors from their own duties, and as such should not replace the (re)insurance undertaking itself as the primary source of information.	
1.2		
1.3		
1.4		
1.5		
1.6	The consultation paper does not propose an application date yet. EIOPA should give the competent authorities sufficient time to establish the dialogues and relating frameworks.	
Guideline 1	Guideline 1 is rather defining the « framework » for the communication between supervisors and auditors than the « objective ». We suggest to consider the wording.	
1.7		
1.8		
1.9		
1.10	1.10 requires a «risk-based» approach. Since the perspective on risk is different for auditors than for supervisors due to different objectives, it might be helpful to clarify how risk should be defined.	

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	<p>Apart from riskiness, complexity and size may determine the frequency and depth of communication. We therefore suggest to use the boarder term « proportionate approach », as used in the corresponding EBA draft guideline.</p>	
1.11	<p>In order ensure effective communication, auditors should be protected from disciplinary proceedings, prosecution and liabilities when disclosures are made in good faith between competent authorities and statutory auditors. Article 12(3) of the Audit Regulation attempts to deal with this by providing that ‘good faith’ disclosures under Articles 12(1) or (2) “shall not constitute a breach of any contractual or legal restriction on disclosure of information.” We also note that engagement letters between statutory auditors and clients should seek consent to such types of disclosure. Nonetheless, complications may arise where there is a non-EEA law or regulation which has the potential to prohibit, restrict or open the possibility of legal or regulatory action in connection with a disclosure by a statutory auditor as envisaged in the guidelines. Such circumstances may arise if, for example, the information originates from a component audit in a non-EEA jurisdiction. In such cases, Article 12(3) may not provide sufficient protection against action outside the EEA for a breach of a non-EU law.</p> <p>EIOPA may encourage competent authorities to consider this issue and develop appropriate mechanisms to facilitate resolution of such issues should they arise. It may also be useful for EIOPA to engage with its peers outside the EEA to consider whether, and if so, how, legal or regulatory mechanisms can continue to evolve to ensure effective protection.</p>	
Guidelines 2		
1.12		
1.13	<p>1.13 asks the CA to address issues and information to be shared. The corresponding draft guideline by EBA is more specific, suggesting a list is prepared and consulted with auditors before communication. We suggest to amend the EIOPA guideline accordingly to increase the effectiveness of the dialogue.</p>	
1.14	<p>1.14 points out that competent authorities should assess which information is relevant for the</p>	

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	<p>supervision of the undertaking and may request relevant information from the statutory auditor(s) or audit firms accordingly.</p> <p>It is important to emphasize that the information auditors share with competent authorities (and vice versa) should be limited to and consistent with the respective audit scope. Hence, as the audit scope might locally differ, competent authorities should define relevant areas in accordance with their national law.</p> <p>In its consultation paper on the same topic, EBA has included an Annex, listing examples of issues on what information could be shared. This list is more extensive and illustrative. We suggest that EIOPA follows the same format.</p>	
1.15	<p>1.15 refers to the form of information « available at different stages in the audit ». We suggest to clarify, that the supervisor cannot have any access to the statutory auditor’s working papers.</p> <p>In addition, the supervisor should inform the auditor before the completion of the audit and in any case when a significant matter has occurred or been revealed that might affect significantly the insurer’s financial statements or its ability to be a going concern. In addition, the supervisors should also communicate to the statutory auditor on a timely basis facts that they become aware, that might be of importance to the auditor in the conduct of his audit and to which the auditor might not otherwise have access to or might not have knowledge of, e.g. non compliance with solvency capital requirements.</p> <p>In addition, after such dialogue has taken place, and unless the insurance undertaking did not attend the dealings, the competent authorities should consider notifying it of the conversation and inform it at least in broad terms of the content, possible conclusions, and followup actions.</p>	
Guideline 3		
1.16		
1.17		
1.18	1.18 requires the supervisor to keep a record of communication. This record should be subject to	

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	minutes shared and agreed with the statutory auditors.	
Guideline 4		
1.19		
1.20		
1.21	1.21 asks the supervisor to consider other participants, such as experts. The same should be possible for the key audit partner: he should as well consider to bring other participants to the dialogue.	
1.22	<p>1.22 highlights that competent authorities should assess whether in particular circumstances and considering the issues to be discussed, trilateral meetings with representatives from the undertaking, and in particular its audit committee, would be useful to achieve effective dialogue. It is important to emphasize that representatives from the insurance undertaking should be included into the conversation from the beginning on to achieve effective dialogue. It is important to ensure that when representatives of the undertakings are not invited to the meetings, some mechanisms should be established to report the issues discussed between supervisor and auditor, in order to consider the main issues that concern.</p> <p>We are not convinced that the public oversight body should be part of the bilateral meetings between the supervisor and the auditor of one particular insurer. Indeed, we believe that if the public oversight body of auditors is invited to such one to one meetings, it might impair the effectiveness of such meetings, for instance access to propriety information and confidentiality. In our opinion, if at all, the public oversight body of auditors is invited in the case the competent supervisory authorities of insurance undertakings meet the auditors collectively to discuss aggregated industry matters as described in GL 6.</p>	
Guideline 5		
1.23		

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1.24		
1.25		
Guideline 6		
1.26		
1.27		
Compliance and reporting rules		
1.28		
1.29		
1.30		
1.31		
Final provision on reviews		
1.32		
Annex I : Impact Assessment		
Section 1. Procedural issues and consultation of interested parties		
Section 2. Problem definition		
Section 3. Objective pursued		
Section 4. Policy options		

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Section 5. Analysis of impacts	<p>The consultation paper refers to an estimation of the cost for the auditor of € 5.400 per bilateral meeting. This relates exclusively to meeting costs. It is not clear. Further costs will result from further communication and reporting. Direct compliance costs may therefore be much higher and in a broad range. A broader impact assistant may help to manage both auditors' and insurers' expectations.</p> <p>It is assumed that the costs of the auditors for these meetings will be passed on to the undertakings. This aspect should not be automatically assumed, and this should be established explicitly in the guidelines.</p>	
Section 6: Comparison of options		
Section 7: Monitoring and evaluation	In order to facilitate monitoring and evaluation, EIOPA may require competent authorities to review the effectiveness of their communications with auditors on a periodic basis (e.g. by surveying the views of individual supervisors and auditors, analysis of examples of good or poor practice).	