	Comments Template on Consultation Paper on the Proposal for Guidelines on Forward Looking assessment of the undertaking's own risks (based on the ORSA principles)	**Deadline 19 June 2013 12:00 CET**
Name of Company:	Deloitte Touche Tohmatsu	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
	Please follow the following instructions for filling in the template: ⇨ 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 empty. ⇨ Please fill in your comment in the relevant row. If you have no comment on a paragraph or a cell, keep the row empty. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. **Please send the completed template, in Word Format, to CP-13-009@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.** The numbering of the paragraphs refers to this Consultation Paper, the numbering of cells refers to the Technical Annexes II and III.	

Reference	**Comment**	**Resolution**
General Comment	Please find below a range of general comments. • The link to the Cover note seems to be missing. Specially the difference in NCAs legal competence is important wherever NCAs should "ensure" the implementation of the guidelines. • The Guideline refers to "Forward Looking Assessment" of the undertaking's own risks (based on ORSA principles). EIOPA decided to name it differently from	

	ORSA. We interpreted that the reason was to differentiate the preparatory phase activity (with a partial coverage of the Solvency II requirements) from the activities to be done when Solvency II will come into force. Thus referring to FLA for the preparatory requirements, and to ORSA for Solvency II final requirements, it would be appreciated if the document could clearly explain what needs to be achieved by the forward looking assessment of the undertaking's own risks (based on ORSA principles) in comparison to the final ORSA under Solvency II. • There seems to be some differences in terminology between the SoG CP and the FLA CP (example "Risk Appetite" is not mentioned in the FLA but in SoG).	
Introduction General Comment		
1.1		
1.2		
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1.6	Comment: The Guidelines have been defined as a preparatory work for Solvency II, requiring NCAs to ensure their implementation within the national regulatory framework. In the Cover Note, it is also taken into account that "NCA could not have the legal competence to enact the relevant financial legislation and is dependent on the power bestowed upon it.").The wording « should put in place » stated in this paragraph could be too prescriptive in some case. Suggestion: We suggest to reword the sentence in « NCAs should recommend to follow this guidelines to prepare for SII »	
1.7	Comment:	

	As for the other consultation papers issued, EIOPA requests to NCA to send a progress report to EIOPA yearly. In order to ensure a consistent and convergent supervision across Europe, taking also into account the group perspective, it could be beneficial to define a minimum content and/or a common template NCAs should agree on. We believe yearly reports by February may not be frequent enough if the goal is a "checkpoint" to assess progress on the application of the guidelines. This is in particular true if Solvency II is implemented in 2016 (only one "checkpoint" in 2015 will be considered) or 2017 (only two "checkpoints"). We suggest EIOPA request a summary report by July of each year, in order to better assess the progress of harmonization and discuss any issue with NCAs (such as varying pace of implementation, divergence in the application of the guidelines, etc.).	
1.8		
1.9	Comment: The paragraph requires NCAs to ensure that "undertakings perform an assessment of their OSN as of 2014". The sentence does not clarify if the undertakings should perform the assessment during the 2014 or they should perform the assessment on 2014 data. By referring to the Cover Note and specifically to the paragraph "General phase in" 4.6, it seems that EIOPA expects undertakings to produce a FLA in 2014. Suggestion: It would be useful to clearly specify if undertakings could decide to perform it on 2013 YE data or on 2014 forecasts.	
1.10	Comment: The paragraph specifies that "these assessments can only be performed on the basis as if the undertaking would need to comply with these requirements". Question: A concern could be raised about the implications on strategic decisions process: in case the undertaking will find out to not comply with the SII requirements, should it base its strategic decisions on current SCR (i. e. Solvency I) or on the FLA results,	

	especially if the corresponding strategic decisions would go in the opposite directions?	
1.11		
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1.16	Comment: The paragraph affirms that the groups applying for a single FLA need to have "a high level of consistency in processes across the group". We think that it would be beneficial to specify better how "consistency" should be interpreted. Suggestion: We suggest defining a set of minimum requirements that will ensure a common understanding of "consistency" across NCAs.	
1.17		
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Section I. General Comments		
1.22	Comment: The roadmap foresees the final guidelines to be provided by EIOPA in the third quarter 2013. NCAs are expected to put in place the FLA requirements by 1st of January 2014. We consider it is extremely challenging for NCAs having only 3 months to answer to this request.	

	However, if EIOPA expects to give NCAs more time and thus put in place the guidelines later on (after 1st of January 2014), this decision may have a direct impact on undertakings, specifically on those undertakings that have already set up a process to run in the first/second quarter of the year.	
1.23	Comment: This paragraph focuses the attention of NCAs on the process and the qualitative information supporting the FLA. While the former is expected to be included in the FLA policy (as stated in guideline 7 – paragraph 1.33), the latter, qualitative information, is not. Question: Would EIOPA consider appropriate to include a statement referred to qualitative information in the FLA policy? If it is the case, it would be beneficial to have further clarification and some examples of qualitative information. Suggestion 1: It would be beneficial if EIOPA could clarify the link between «qualitative information » and the different components of the FLA documentation in section 1.32 b), c), d). For examples: Is this completely the same, is one part of the other and if, which of which? Or is this «qualitative information» something new and different? Further clarification on this matter would be appreciated. Suggestion 2: As stated in this paragraph, the NCA is to review and evaluate the quality of the information. It would be useful if EIOPA could explain how this evaluation is to be performed (how to measure quality) and how the « level playing field » is to be safeguarded. Further clarification on this matter would be appreciated as lack of guidance may lead to inconsistency among NCAs.	
1.24	Comment: Our understanding of the rationale of this paragraph is to require NCAs to start documenting their activity starting from 2015 by depicting the picture of the national context observed during the 2014. Referring to the paragraph 4.6 of the Cover Note	

	(and specifically *"NCAs are entitled to have different expectations towards undertakings for the forward looking assessment produced in 2015 as compared with that produced in 2014."*) we expect the NCAs would adopt a step by step approach, providing undertakings with different priorities on the guidelines and requirements they will put in place and monitor in the preparatory phase.	
1.25	Comment: We understand that overall solvency needs means the assessment is on a continuous basis, point in time of the year (e.g. year end) and projected over planning horizon on both the SII SCR basis and where relevant on internal management own view of solvency. If this is not the case we hope EIOPA will make this clear in her answer. Comment: The rationale of the paragraph is to require NCAs to apply the requirement of OSN assessment to all the undertakings. As regards to the assessment to be performed in 2014, we believe that flexibility could be granted by NCAs to undertakings considering the general phase-in principle. For example referring to UK regime, it could be accepted by NCA that undertakings perform the assessment solely on an ICA valuation basis as long as the decision making are based on the assessment, reporting and governance arrangements referred to ICA, while expecting undertakings to use a SII basis SCR in 2015 . (please see also the question in 1.10)	
1.26	Question: How should the compliance « on a continuous basis » be assessed ? Should for example « regulatory risks » be factored in as SII requirements are expected to change in the years coming (e. g. application of matching adjustment which could be make quite difference for some life insurers)? Further clarification on this matter would be appreciated. Question: We understand it is up to the NCA to calculate which firms fall into the 80% threshold limit and to communicate this to firms. Is it expected that NCAs communicates the list of the undertakings falling into the threshold by end of 2013? Further clarification on	

	this matter would be appreciated. Question2: Some smaller firms have made few preparations for Solvency II. Given the centrality of the ORSA to the Solvency II objectives, was the option of requiring firms outside of the threshold to comply with a subset of requirements considered? For example, to calculate their own solvency needs and report this at least annually to the AMSB?	
1.27		
1.28	Comment: We understand the rationale of the paragraph is to allow undertakings to use their internal model during the preparatory phase for FLA purpose. The second part of the paragraph seems to require to these undertakings to perform a second assessment that should ensure, in case the internal model will not be approved, that the undertaking has in place an assessment that satisfies regulatory requirements. Moreover, in the annex at the end of paragraph 2.79, EIOPA specifies that the undertaking should be *"able to explain the effect on capital needs if the standard formula were to be used".* Question: What is expected from the undertaking for the second part of this requirement ? Does the undertaking need to calculate the standard formula and its future compliance with it or could the undertaking perform a qualitative assessment? Further clarification on this matter would be appreciated Suggestion: We suggest to clearly specify if the second assessment mentioned in this paragraph is referred to the standard formula (as mentioned in Annex paragraph 2.72) , and we propose the following rewording: *Proposed rewording:* "provided that the undertaking concerned also performs the assessment based on	

	standard formula approach for preparing for the eventuality that the application to use the internal model…" Suggestion2: Moreover we would propose to adopt a "phase-in" approach, postponing this request for a double assessment to the second FLA dry run foreseen in 2015, by accepting a qualitative assessment for the first dry run in 2014. Question: As per comments in 1.25, assume that if you are able to perform the 2014 assessment (based on 2013 year end) on a UK ICA basis, this ICA calculation must be calculated in the internal model for which you are seeking approval or based on existing model (e.g. excel spreadsheet, etc…)? If so, does this require all elements of the assessment to have been calculated through the Internal Model (i.e. Q1 – Q4 calculations and year end calculation and projected capital calculations) or is it permissible that elements of this assessment were performed in the internal model (e.g. just the year end assessment)? Further clarification on this matter would be appreciated. If undertakings use an IM do they need to use it for all the elements of the FLA or could they use it for some elements (e.g. for OSN calculation, not for projections)?	
1.29	Comment: We understand that the rationale of the paragraph is to require to the undertakings not applying for internal model approval to perform the assessment of the deviations of the FLA results with the SII SCR requirements. As it said in paragraph 1.10 and in paragraph 4.14 of the Cover note, both the assessments of continuous compliance and significant deviation of the risk profile in the preparatory phase have to be done "as if" SII quantitative requirements were in force. The prerequisite is that EIOPA will provide the technical specifications for the standard formula on time. Suggestion1: Only here the addition « provided that the technical specifications for the calculation of	

	the Solvency II regulatory capital requirements have been provided » is mentioned. We suggest deleting this sentence as it seems superfluous considering the underlying assumption stated above. Suggestion2: Within the CP, it is not specified any deadline for the publications of the aforementioned technical specifications. As we consider this step critical for the application of the FLA requirements, we will suggest providing a preliminary timeline in order to facilitate the undertakings in their activity planning. Comment: In addition to the technical specifications, it would be useful and probably necessary for NCAs and undertakings to have also an updated calibration paper . Question: With reference to groups applying for a partial internal model, does this requirement apply to the entities not included in the partial internal model?	
Section II. General Comments		
1.30	Comment: With reference to the statement "Tailored to fit into its organisational structure" We expect that the processes that are put in place at least produce an Own Risk and Solvency Assessment at a (re)insurance regulated entity level and at the level of the group. Rationale for comment: Previously, some firms, have performed a risk and solvency assessment at business function level (based on existing processes) that was not exactly akin to a legal entity basis and to perform this separately at (re)insurance regulated entity level may be a step change to existing processes and procedures. It would therefore be good to confirm this is the requirement.	

1.31	Question1: Is the definition of AMSB up to each organisation to determine and does each organisation therefore have the flexibility to delegate this downwards as far as they seem fit (e.g. a number of levels below Board)? This question is also relevant when considering the CP on the System of Governance. See also our question at 1.47. Question2: To what extent will NCAs be expected to challenge the discrepancy of what constitutes AMSB (e.g. Board, Executive elements of the Board only, Board sub-committee, Management committee)? Question3: Will a sub-committee of the Board be deemed sufficient representation of the AMSB (i.e. will penetration of information on the FLA to the Board Risk Committee be sufficient or does EIOPA require the full Board (i.e. the decision makers) require to be involved in the process? Comment: Assume that steering the performance of the FLA includes the AMSB taking an active involvement in the setting of the parameters of the assessment (e.g. which stress and scenarios should be used), the timing of the FLA (when in the year), the frequency and the way in which the results are presented (i.e. feedback provided on the form and content of FLA reporting). Rationale for comment: It would be beneficial to gain clarity on the level of engagement expected of the AMSB in the process and the analysis of results and clarity over whether or not this engagement can be delegated.	

	Question4: To what depth is AMSB challenge of the FLA expected? Assume this at least includes challenge over the risks included and of the key conclusions of the assessment. Comment: Assumption is that this challenge should be evidence in some form of documentation. For example, this could be in the form of a sign off or statement in the FLA Report and detailed evidence of the level of steer and challenge provided by the AMSB is included in the ORSA Record (e.g. this could be included in the board minutes) Rationale for comment: Sign off in FLA report would help facilitate AMSB accountability that they have read and understood this. However, the basis of their sign off could be included in the record to ensure the report remains as streamlined as possible.	
1.32	Comment: 1 a) We assume that by 1 January 2014 an organisation's FLA Policy should be effective and any parts of the organisation who are unable to meet the requirements of the Policy have already got their waivers in place from Group. Simply having a Policy that no-one conforms to will not enable a firm to transition towards SII compliance, therefore would like confirmation that the regulations imply having an "effective" policy rather than just having one written. However, flexibility in the form of waivers, will allow elements of the Policy (e.g. Solvency II compliant capital calculations) to be adopted later as and when entities capability is developed and when clarity over regulations is available. Does EIOPA expect the Policy to be effective as of 1 January 2014 or 1 January 2015 (referring to the phase-in mentioned in 4.6 og) . Suggestion is to have written policy as per January 2014 approved by the board that is effectives as per January 2015. Comment: 1b) We assume that the record of the FLA will contain the detail supporting the FLA so	

	that a suitably qualified third party could come to the same conclusions as presented in the FLA report and that this may be made up of either existing documentation, new documentation or a combination of both. Rationale for comment: We would like confirmation that the principle behind the record has not changed since the last consultation. <u>Question1:</u> 1c) Is it possible that the full suite of information expected to be in an FLA report could in fact be in multiple reports that are communicated to the AMSB throughout the year and collectively are known as the FLA Report? Conversely, is it a requirement that the key conclusions from this assessment all have to be in a single document? <u>Question2:</u> 1d) As per point (c) above, if an organisation determines that a collection of documents will form the FLA report, will the full scope of these reports be required to be reported externally or just the sections of these reports that pertain to the FLA?	
1.33	<u>Comment:</u> As per previous consultation feedback - assume that wider documentation can be cross referred where wider requirements are outlined in other policy or standard documentation (e.g. Data requirements in a Data Governance Policy). Rationale for comment: To avoid duplication of documentation. <u>Question1:</u> With regards to "a consideration of the link between the risk profile, the approved risk tolerance limits and the overall solvency needs" is there any specific way in which this is expected to be achieved? The word "consideration" could be interpreted in the form of a description, or requirements, or guidelines, or cross reference to wider documentation that includes this information. What is the practical implementation of "a consideration of the link"?	

	Question2: Assume the minimum frequency of the assessment is annual. Which would be conditions in which a yearly frequency for the assessment – not considering an ad-hoc assessment in case it is triggered – would not be deemed sufficient?"	
1.34	Comment: Assumption is that as the FLA record will leverage, where applicable, existing documentation of the processes that the FLA touches upon (strategy, risk, solvency assessment processes). Organisations are keen to leverage existing documentation where possible.	
1.35	Question1: Can the AMSB delegate the responsibility of assessing which information is relevant to which staff? Does the AMSB have to physically communicate this information themselves or can this be delegated? Question2: In case of a single document for an insurance group, the AMSB of the entity will maintain the responsibility of the FLA assessment related to the entity; therefore the group is expected to provide the entity's AMSB with the FLA documentation. Will the group be allowed to provide the entity with only the information related to it, without disclosing the overall group report? Will EIOPA expect a second document to be prepared or could it be an extract of the single document?	
1.36	Question 1: See 1.32, if a firm can use a collection of reports to communicate the conclusions of the assessment, does this require each report be submitted within 2 weeks of AMSB approval or after all reports have been concluded upon? What is the rationale for the time period 2 weeks? Question 2: Although the conclusions of the supervisory report will align with the conclusion of the	

	internal report, additional descriptions or explanations may be desired in supervisory reporting. Does the 2 weeks start from the approval of the Supervisory report regardless of the internal report closing? Comment With reference to point c), we understand that the comparison requested are based firstly on a qualitative assessment, and only if material by a quantitative one as explained in Annex paragraph 2.66 – 2.69. Suggestion: This explanatory text could be moved from the annex to the main body of the text as an explanatory note to the guideline.	
Section III. General Comments	Generally we would like greater clarity on the role of the different valuation and recognition bases described in 1.37 when point 1.42 seems to imply that a strict Solvency II calculation is necessary. More detailed comments on this issue can be found in the commentary to points 1.37 and 1.42. Based on the Guidelines we potentially see that companies could be doing three sets of capital projections: 1) using their internal methodology, which can be different from Solvency II principles, 2) using a Solvency II internal model in the pre-application phase, 3) using the standard formula approach. If this were the case, this would be very burdensome and penalising companies for using their own internal approach or even an internal model.	
1.37	Question1: What are the Solvency II valuation bases when Pillar I is not finalized and there is no set of Guidelines for Pillar I? Do we understand correctly from the Cover note points 4.12 – 4.15 that it is assumed that the finalised Level 1 and Level 2 texts will be available in time for the preparation of the first forward looking assesment and a technical specification (and the corresponding information on calibrations) for the calculations will be published? Question2:	

	What is exactly meant by "different recognition and valuation bases"? We understand that for the forward looking assesment insurers are allowed to use a different approach for the quantification of capital needs than defined by Solvency II. Does this cover only the valuation of technical provisions (i.e. issues like different approach to contract boundaries, to risk margin, to matching adjustment, etc.) or also different approaches to the capital calculations (different confidence level from 99.5%, different approach to capital calculation from standard formula, etc.)? Does it also cover a different approach to classifying assets for Own Funds?	
1.38	Question1: The need for quantitative assessment of the differences seems to imply that if insurers want to use a different valuation base than Solvency II for their forward looking assesment they still have to do all of the calculations using the Solvency II methodology (i.e. two calculations: a) using the company's internal approach; and b) using the Solvency II approach). Are both sets of calculations required in order to satisfy this point? The need for quantitative assesment of the differences seems overly burdensome. If both of these calculations are required is it sufficient that an overall quantitative difference be provided with accompanied qualitative descriptions of the differences or does this require a quantitative impact assessment of each difference in turn? Question2: If an organisation has made an end state design decision that its internal management view of valuation basis and calculation methodology will not differ from its Internal Model SCR (e.g. for a GI company that does not have the same issues in relation to matching premium), what is required to be included in the FLA to meet this requirement? Would this just be a qualitative description of the assessment performed (and governance surrounding this) that the Internal Model SCR valuations are deemed appropriate? Question3:	

	Can an internal model based on the Solvency II methodology be used for this assessment (as the model to which the different valuation basis will be compared) or is comparison to the standard formula needed in this Guideline also? Is it necessary for the internal model to be in the pre-application phase?	
1.39		
1.40	Comment: "Sufficiently wide range of stress test or scenario analysis" should be more clear – in terms of what is "sufficient" and what is the expected scope (reverse stress test, sensitivity analysis, etc.).	
1.41	Question: What is the scope of the forward looking assessment in the future? Does this apply to all of the requirements mentioned in Guideline 12 and 13 (quantitative assessment of overall solvency needs and stress tests)? Does this mean that companies need to perform a quantitative projection of their capital needs and perform all stresses at each period? Does this also apply to the assessment of different valuation and recognition bases as described by point 1.37? Comment: In case a quantitative projection of capital needs is required this is quite onerous and companies may not be in a position to project capital requirements accurately in 2014. We suggest that wording is included to allow for some simplifications in the capital projections. Comment: "medium or long term as appropriate" should be more clear. We suggest that it may be useful to include wording to reference back to the business planning period, as per the explanatory text	
1.42	Question: What is the difference between the forward-looking assessment of overall solvency needs over a long or medium term as described by 1.41 and assessment if the undertaking would comply on a continuous basis with Solvency II regulatory capital	

	requirements in this point? Is the only difference in the fact that the forward-looking assessment is about projecting capital requirements while the continuous compliance is about comparing these projected capital requirements with projected available capital? Can the capital requirements be projected as part of the forward-looking assessment of overall solvency needs be the same (using the same valuation basis) as the capital requirements used in the assessment of continuous compliance? If yes, this would in our understanding imply that the different valuation bases can also be used in the assessment of continuous compliance. Is our understanding correct? If using the different valuation basis is not allowed what is then the purpose of the different valuation bases assesement from point 1.41? In either case this requirement is quite onerous and companies may not be in a position to project capital requirements accurately in 2014. We suggest that wording is included to allow for some simplifications in the capital projections.	
1.43	Question1: What is meant by this point? Which requirements connected with technical provisions does this mainly refer to (data quality, best estimate calculation, risk margin, documentation, validation, …?)? Question2: How can you assess if you will comply with calculation requirements in the future? Does this mean that you should try to predict for example data quality problems in the future? Or rather for example legislative changes in the future or new products and the readiness of existing models? What are requirements connected with risks arising from the technical provisions calculation? Question3: Is the assessment of the compliance with technical provisions requirements purely forward-looking or is proof of continuous compliance in the past also relevant?	

1.44	Comment: We understand from point 4.14 of the Cover note that EIOPA will provide guidance on the assumptions underlying the technical provisions and standard formula calculations. We suggest to explicitly link to this future guidance as part of the text of this point. Suggestion: It might be very onerous to ask companies to assess \ quantify the impact of any deviations. We understand that point 2.69 addresses this point and requires quantitative analysis only in cases where qualitative analysis indicated that the impact is significant. We agree with this point and suggest to include this wording directly in point 1.44.	
1.45		
1.46		
Section IV. General Comments	Suggestion: The guidelines should be clearer on what approach should be taken by groups when different NCA's within the college adopt different approaches to the interim measures. For example, if one NCA within the college adopts the guidelines fully and without adjustment but another NCA only partially adopts the interim measures or does not adopt them at all or if conflicting approaches are agreed, then how should impacted entities proceed in preparing for Solvency II?	
1.47	Comment: The guideline affirms that the scope of the FLA should include at least the entities included in the scope of group supervision. When referring to a group, we assume that the college of supervisors covering the specific group will have already agreed the scope of group supervision. Question1: For organisations whose legal entity basis is expected to change before go live, will organisations be expected to put in place processes to conduct an FLA for entities that will no longer exist in a few years? Further clarification on this matter would be	

	appreciated. Question2: Will specific waivers from national competent authorities be required to exempt from the requirement for a full FLA for these entities that will no longer be part of the Group by the time of Go-Live? [see 1.30] Further clarification on this matter would be appreciated.	
1.48	Suggestion: Referring, to the bullet point a), the guideline seems to assign to the group supervisor the ultimate responsibility for deciding on the single group FLA document. If it is the case, it will be beneficial to clearly state it, in order to avoid different application of the same guideline across countries. It would be useful for undertakings to have some input into this decision making process in the interests of transparency. Question: Taking into account the entity-by-entity assessment as the principle we have the following question. Analysing the possibilities for the report to supervisory authorities (a single report or group and subsidiaries reports), we find that for some groups this requirement does not match with the way the group manages the business. If one of the aims of the FLA is for management purposes, should there be a possibility where the group could be able to apply for a single report for some of the subsidiaries together, if those companies have similar (even the same) SoG? (see also 1.30)	
1.49	Comment: We understand from this guidelines that specific items should be performed at group level such as stress testing that could, for illustration, assess the impact of the scaled up concentration risk at the group level (raised by country risk, currency risk,…). If so, we would welcome further clarification whether this stress testing is required for group specific risks, also specifically for the interim period.	
1.50	Comment: The guideline requires groups to "include in the record of the group FLA of the	

	undertaking's own risk at least the description of "how" the following factors were taken into considerations". The word "how" does not clarify if, with reference to the topics listed, each group could decide to not report those analysis in the FLA report and to mention them only in the record of each assessment. Suggestion: Considering the relevance of those topics in the group supervision, we think it would be better to clarify that the group should document both the results of those analysis and the description of the process it has adopted for assessing those items	
1.51	Comment: Analysing the possibilities for the report to supervisory authorities (a single report or not), we find that for some cases this requirement does not match with the way the group manages the business, specially when the groups is composed of monoline and non-monoline companies, and the group manage the monoline companies together with the parent company because they have a centralised risk management system. However the non-monoline company has a different risk management system.	
1.52		
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Compliance and Reporting Rules General Comments		
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	Comments Template on Consultation Paper on the Proposal for Guidelines on Forward Looking assessment of the undertaking's own risks (based on the ORSA principles)	Deadline 19 June 2013 12:00 CET
Impact Assessment – General Coments		
2.1		
2.2		
2.3	Comment: Agree with points a - b – c – d Also having a preparatory phase provides a mechanism through which NCAs and organisations can discuss current designs and progress. This provides an opportunity for any discrepancies between a firm's response to preparatory guidelines against the NCAs expectations to be resolved in advance of "go-live". As per your point D, this should mitigate against final rush costs and errors being made.	
2.4	Comment: see comment 2.3	
2.5	Comment: Disagree with points a – c, the guidelines ensure a base level of practices and procedures with regards to the FLA. Not providing the guidelines could have generate short term benefits that could easily become shortcomings in the medium-long term for those undertakings that would not have been prepared it properly. Getting the FLA on the AMSB agenda is a key success criteria of the guidelines, without the preparatory phase there is a risk that the Board is making strategic decisions without a full assessment of risks and their impact on capital needs (and how this is expected to change when SII comes into force).	
2.6		
2.7	Comment: Agree with point B, strategic decisions should be informed by the risks associated with them and the ORSA provides the mechanism through which the AMSB are engaged	

	with this MI. Comment2: In the UK, there is currently a regulatory focus on Conduct risk and ensuring that organisations have in place a culture that supports customer centricity and ensures customer outcomes are considered in product decisions. As such, we would expect one of the ways in which organisations evidence this culture is by ensuring conduct risk, and associated conduct risk appetite, is one of the risks included in the ORSA even if this is not measured/ managed fully on a capital basis. Question: To what extent would EIOPA expect conduct risk to feature in the ORSA as a key risk and should the guidelines specify or make reference to this in some way? Suggestion: Perhaps this could be included in the explanatory text underpinning guideline 17 – Link to the strategic management process and decision making framework. This could make clear that in addition to integrating the outcome of solvency analysis into strategic decision making, consumers outcomes of pursuing those strategic decisions should also be taken into account. That the risk of being unable to meet consumer interests includes both an assessment of the organisations ability to remain a going concern (through capital analysis) but also whether the product offerings, their pricing, delivery and management are appropriate to the consumers best interests (which may be assessed on a non-capital basis).	
2.8		
2.9		
2.10		
2.11	Comment: Agree with the statement.	

	Specifically from the perspective of a group operating in different Member States, a different approach to FLA by the NCAs would have made the group assessment (and the supervisory activity) much more complicated.	
2.12	Comment: Agree with the point that the AMSB should be more involved in the processes of risk management and the forward looking assessment of the undertaking's own risk and solvency needs. However, we think that it would be beneficial to get some further principles or explanatory text around defining the AMSB and the extent to which delegation of authority with respect to the guidelines is allowed. Comment: As per our comments in response to 1.31 above, we believe the ambiguity around how the AMSB is defined and the flexibility around the level to which it may delegate its responsibilities may undermine this objective.	
2.13		
2.14	Comment: Agree with the statement. Including the FLA in the key areas to be addressed by the preparatory guidelines, it will allow insurance companies to undertake the improvements aimed at enhancing their risk management system by remaining focused on the double ambition: complying with the new regulation whilst determining a solution shaped on their specific business model/organisation	
2.15		
2.16	Comment: Wording "In most cases": Are there any guidelines that are not seen as principle based and should be considered a rule? Are there any instances in which the guidelines will not apply in preparatory phase? For example, if an entity is being sold in full or part to another entity, will the organisation still be required to put in place processes to conduct an ORSA for that	

	entity (even though it is not expected to exist in go-live)? Suggestion: It could be valuable to make it clear whether the interim measures apply to the current legal entity structure or to the legal entity structure expected to be in existence at go live (either in the cover note for the consultation on interim measures or within each of the implementing measures)	
2.17		
2.18	Comment: The thresholds imply that those companies with a relatively higher market share will need to implement these guidelines a year in advance of their smaller counterparts (as per 1.26). EIOPA have proposed threshold conditions so as to help NCA's manage the "significant change" however the threshold conditions themselves require the relatively larger, and presumably more complex firms, to implement this significant change a year earlier than their counterparts. More clarification on the justification on this threshold would therefore be welcome, .e.g is the threshold condition therefore to help NCAs manage their workload or to assist firms manage the step change?	
2.19	Comment: We agree on applying thresholds in order to take a proportionate approach. Besides, we consider that it would be useful to specify that NCAs should also include in their yearly reporting to EIOPA the progress achieved by the undertakings that will not fall within the thresholds. It is beneficial to ensure that all the undertaking will be able to comply with the Solvency II requirements once it is fully applied. It should be specified clearly in guideline 2.	
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2.33	Comment: Typo "an forward"	
2.34	Comment: „a decision to forego the report for the preparatory phase was not considered to be optional". The wording is unnecessarily complicated.	
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Question 1		
Question 2		
Question 3		
Question 4		
Question 5		
Question 6		

2.39		
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2.41	Question: What should be uderstood by "the regulatory capital regime in place"? If performing assessment of the continuous compliance with regulatory capital requirements was necessary, it would be convenient to release a common regime for the preparatory phase	
2.42	Comment: We understand that the situation of the undertakings around Europe is very different in the use of economic capital projections models. We propose a preparatory phase, increasing the requirements each year. For example: • During the first phase, compliance with article 45.1.a • During the second phase, compliance with article 45.1.a , 45.1.b and 45.1.c	
2.43	Comment: *"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"* Agree that using existing regime rules would still be useful for continuous compliance with capital requirements. Does this continuous compliance with the rules apply for calculating technical provisions as well? If so please also consider our questions in section III, 1.43.	
2.44	Suggestion: The following statement, reported here below, seems to assign priority to the objective the FLA is aiming to. We suggest to clearly state it by for instance adopting a gradual phase-in as stated in the comment 2.42 *"from a supervisory point of view good preparation is to be considered more important for the assessment of the continuous compliance with requirements than for the assessment of the significant deviation from the assumptions underlying the Solvency*	

	Capital Requirement calculation" Comment: Agree with the general comment, moreover it would be useful for the NCA to understand the progress firms have made in making their decisions over whether the valuation principles and calculation methodologies will differ from the SCR even if they haven't calculated this yet. If firms are yet to finalise their calculation designs then they may be at risk of achieving practical implementation in time for go live. The NCA may find it useful to understand who these "at risk" firms are now so they can provide guidance and support.	
2.45		
2.46	Comment: It is understandable that Level 3 guidelines should not be in contradiction with Level 2 requirements.	
2.47		
2.48	Comment: On one hand side it is a good goal that each undertaking develops its own level of detail. Supervisory may still require more information and thus more details. It is even important for medium and small companies that did not do a process similar to ORSA and will be vulnerable to arguments imposed by the supervision. Clarification on how EIOPO suggests to deal with differences in detail would be appreciated.	
2.49		
2.50	Comment: A strict structure template might not be required but an example report would be useful. Undertakings believe that they are still in the learning process of the new requirements, and of ORSA requirements and want to have some guidelines regarding the documentation and reporting. Typo "want they want"	
2.51		

2.52		
2.53	Suggestion: In order to ensure a consistent approach across countries and college of supervisors, we think it would be beneficial EIOPA to provide a Guideline that NCAs should have to follow in case of request of a single FLA document by a Group.	
2.54	Comment: We understand that a group as the possibility for applying for a single document. We would like to ask clarification if the wording „any subsidiary" should be interpreted as all-inclusive (all the subsidiaries are mandatory) or could be interpreted as „some of the subsidiaries" creating the possibility, where reasonable (please see comment 1.48) of including only a sub-group of entities in the single FLA document and having individual FLA document for the other entities.	
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2.56	Comment: Typo "constraint"	
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2.61	Comment: Where organisations have the ability to define for themselves what is meant by AMSB then this could end up being approved by a body that is several levels below the Board. Clearer guidance is required on how AMSB should be interpreted and what level of delegation is allowed in requirements that apply to the AMSB (e.g. is it sufficient that the Board approves a Policy based solely on a recommendation by a lower governance body without actually reading it for themselves?). (please see also comment 1.31)	
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2.65	Comment: The wording is unnecessarily difficult to interpret and could be clarified further. We understand that EIOPA expects each undertaking to develop its own policy in the preparatory phase.	
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2.67		
2.68	Comment: The statement here below seems to clarify that during the preparatory phase, the undertaking has freedom in evaluating their OSN (could be on existing regime basis, on internal SII basis, etc…). We refer to our comments in Section III. *„EIOPA is aware of that quantification can be rather burdensome, especially if the undertaking during the preparatory phase has made use of the freedom to not apply Solvency II principles to the overall solvency assessment in which case switching to Solvency II is necessary before quantification.*"	
2.69		
2.70		
2.71	Comment: Based on Guideline 11 (point 1.37) we understand that undertakings are allowed to use different valuation and recognition bases for their assessment of their overall solvency needs then defined by Solvency II if they are able to explain why this basis is more appropriate. From this we understand that this allows not only the usage of the Solvency II standard formula, the Solvency II internal model in the pre-application phase but also different approaches not defined by Solvency II. What is therefore the meaning of this section (points 2.71 to 2.73)? Does it relate only to the question of whether the undertaking needs to estimate the impact of the different basis (Guideline 11, point 1.38)?	

	We find it possible that an undertaking will want to use a different approach then their Solvency II SCR for the forward looking assessment, not because it doesn't trust its internal model but because the undertaking has more freedom in choosing the approach which best fits its risks for the forward looking assessment then when preparing an internal model. Suggestion: More explanation on this issue would be welcome.	
2.72	Comment: Firms are at different stages of development of their internal model, and some are in advanced dialogue with their national regulators. The requirement to produce a forward looking assessment on both an internal model and standard formula basis for firms (within the threshold) applying for internal model approval is potentially onerous, and does not give credit to those firms that are best prepared for Solvency II in terms of their internal model. It is noted that use of internal model vs standard formula SCR also impacts technical provisions via the risk margin, own funds eligible to meet SCR etc and needing to project such variables into the future (to comply with Guideline 13) on both internal model and standard formula basis is potentially onerous if a robust quantitative assessment is required on both bases. Please also refer to 1.28 and 1.44. More explanation on this issue would be welcome.	
2.73		
2.74	Comment: Typo "weighting"	
2.75		
2.76		
2.77	Comment: It does not become clear how the FLA policy relates to the risk management policy. Question:	

	How should these documents be connected? Can the FLA policy be part of the risk management policy? Or should they be two separated policies?	
2.78	Comment: We agree with the rationale of guaranteeing flexibility. However we think a set of minimum requirements for the contents could be useful. Suggestion: In case the level 2 implementing measures would not be release on time, we suggest EIOPA to release information regarding minimum requirements. Question: Could Guideline 10 be understood as minimum requirements?	
2.79	Comment: See 2.72 above.	
2.80		
2.81	Question: What can a qualitative assessment look like? Should it be based on data, calibration and methodology? It could be a challenge to describe the resulting differences between a stochastic and a deterministic / factor-based approach.	
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2.87	Comment: Typo "inside"	
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2.89		
2.90		

Template comments