

Guidelines

on

Forward Looking assessment of own risks

(based on the ORSA principles)

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1. Introduction

- 1.1. According to Article 16 of Regulation (EU) 1094/2010 of 24 November 2010 (hereafter, EIOPA Regulation)¹ EIOPA issues Guidelines addressed to National Competent Authorities (NCAs) on how to proceed in the preparatory phase leading up to the application of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II Directive)².
- 1.2. These Guidelines are based on Article 41, Article 44, Article 45 and Article 246 of Solvency II Directive.
- 1.3. In the absence of preparatory Guidelines, European national competent authorities may see the need to develop national solutions in order to ensure sound risk sensitive supervision. Instead of reaching consistent and convergent supervision in the EU, different national solutions may emerge to the detriment of a good functioning internal market.
- 1.4. It is of key importance that there will be a consistent and convergent approach with respect to the preparation of Solvency II. These Guidelines should be seen as preparatory work for Solvency II by fostering preparation with respect to key areas of Solvency II in order to ensure proper management of undertakings and that supervisors have sufficient information at hand. These areas are the system of governance, including risk management system and a forward looking assessment of own risks (based on the Own Risk and Solvency Assessment principles, known as ORSA), pre-application for internal models, and submission of information to competent authorities.
- 1.5. Early preparation is key in order to ensure that when Solvency II is fully applicable undertakings and national competent authorities will be well prepared and able to apply the new system. For this, national competent authorities are expected to engage with undertakings in a close dialogue.
- 1.6. As part of the preparation for the implementation of Solvency II, national competent authorities should put in place from 1 January 2014 the Guidelines as set out in this document so that insurance and reinsurance undertakings take appropriate steps to full implementation of Solvency II.
- 1.7. National competent authorities should send to EIOPA, a progress report on the application of these Guidelines by the end of February following each relevant year, the first being by 28 February 2015 based on the period 1 January 2014 to 31 December 2014.
- 1.8. In the preparatory phase national competent authorities are expected to ensure that insurance and reinsurance undertakings take a forward looking view on the risks to which they are exposed similar to what they will have to do once

¹ OJ L 331, 15.12.2010, p. 48–83

² OJ L 335, 17.12.2009, p.1-155

Solvency II will apply. For this, it is expected that insurance and reinsurance undertakings actively prepare and begin the implementation of the forward looking assessment of own risks (based on the ORSA principles) according to Article 45 of Solvency II Directive.

- 1.9. Since the assessment of the overall solvency needs can be undertaken irrespective of what regulatory quantitative requirements are applicable, national competent authorities are expected to ensure that undertakings perform such an assessment starting from 2014.
- 1.10. The assessment of the continuous compliance with regulatory capital requirements and the requirements on technical provisions according to Article 45(1) (b) and the assessment of the significance of the deviation of the risk profile of an undertaking from the assumptions underlying the calculation of the SCR according to Article 45(1) (c) of Solvency II Directive have a strong connection to Solvency II quantitative requirements which are not yet applicable during the preparatory period.
- 1.11. As all the issues that would need to be covered by the assessment of the significance of their risk profile deviating from the assumptions underlying the SCR calculation are already addressed through the pre-application process for internal model users, national competent authorities are not expected to ensure that undertakings which are in the pre-application process perform such an assessment in their forward looking assessment of own risks.
- 1.12. The Guidelines focus on what is to be achieved by this assessment rather than on how it is to be performed. For example, since the assessment of overall solvency needs represents the undertaking's own view of its risk profile, and the capital and other means needed to address these risks, the undertaking should decide for itself how to perform this assessment given the nature, scale and complexity of the risks inherent in its business.
- 1.13. These preparatory Guidelines include a Guideline for a report on the forward looking assessment of own risks. This report is meant to provide necessary information to the supervisor on the assessment made.
- 1.14. EIOPA acknowledges and supports the developments and achievements on a global scale and national level outside the European Union with regard to setting standards for Own Risk and Solvency Assessments with a forward looking perspective. But EIOPA does not expect that supervisory authorities in third countries apply the preparatory Guidelines. The Guidelines are not subject to equivalence analysis nor do they pre-empt any decision taken in past or future by the European Commission regarding equivalence. When referring to group structures or group level the preparatory Guidelines apply to EEA groups only, not to branches set up in the EEA of third country (re)insurance companies.
- 1.15. It is crucial that the administrative, management or supervisory body (AMSB) of the undertaking is aware of all material risks the undertaking faces, regardless of whether the risks are captured by the SCR calculation and whether they are quantifiable or not. It is also vital that the AMSB takes an

active role in the forward looking assessment of own risks by directing the process and challenging the outcome.

- 1.16. In case a group wishes to apply for the use of a single group forward looking assessment of own risks document this requires a high level of consistency in processes across the group.
- 1.17. The Guidelines apply to both individual undertakings and at the level of the group. Additionally, the Guidelines address issues relevant to the group specificities of the forward looking assessment of own risks, in particular on account of specific risks to the group or risks that could be less relevant at individual level than at group level.
- 1.18. The relevant Guidelines for individual undertakings apply mutatis mutandis to the group forward looking assessment of own risks. Additionally, groups need to take into consideration the group specific Guidelines.
- 1.19. Internal models users which are in the pre-application process for internal models are expected to prepare for the use of the internal model in the assessment of their overall solvency needs. Therefore, for the purposes of performing this assessment during preparatory phase, internal models users which are in the pre-application phase should be allowed to use the internal model.
- 1.20. For the purpose of these Guidelines, the following definitions have been developed:
 - a) "forward looking assessment of own risks" which is used in the Guidelines: is meant to be identical to "forward looking assessment of own risks (based on ORSA principles)"
 - b) "group level": means a coherent economic entity (holistic view) comprising all entities in the group as referred to in the Guidelines on the system of governance;
 - c) "the responsible entity" which is used in the group specific Guidelines as the entity responsible for fulfilling the governance requirements at group level;
 - d) "group forward looking assessment of own risks": means the forward looking assessment of own risks undertaken at group level; and
 - e) "single forward looking assessment of own risks' document": means the single forward looking assessment of own risks undertaken at the level of the group and at the level of any subsidiary of the group on the same reference date and period formalised in one document when supervisory agreement is given to do so.
- 1.21. The Guidelines shall apply from 1 January 2014.

Section I: General Provisions for preparatory Guidelines

Guideline 1- General provisions for Guidelines

- 1.22. As part of the preparation for the implementation of Solvency II, national competent authorities should take the appropriate steps in order to put in place from 1 January 2014 the present Guidelines on the forward looking assessment of own risks (based on the ORSA principles).
- 1.23. National competent authorities should ensure that insurance and reinsurance undertakings and groups take the appropriate steps to
 - a. establish a process to develop a forward looking assessment of own risks; and
 - b. compile qualitative information supporting the forward looking assessment of own risks that will allow national competent authorities to review and evaluate the quality of the process.

Guideline 2 - Progress report to EIOPA

- 1.24. National competent authorities should send to EIOPA, a progress report on the application of these Guidelines by the end of February following each relevant year, the first being by 28 February 2015 based on the period 1 January 2014 to 31 December 2014.

Guideline 3: Applicability of the threshold for the forward looking assessment of own risks

- 1.25. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that all undertakings and groups falling under Solvency II Directive perform an assessment of their overall solvency needs, starting in 2014.
- 1.26. National competent authorities should require that undertakings representing at least 80% of the market share as defined in Guideline 5 to7 in the "Guidelines on submission of information to national competent authorities" perform an assessment of whether the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements on the Solvency II technical provisions starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital requirements and on the calculation of technical provisions will be provided.
- 1.27. National competent authorities should require that groups submitting annual quantitative information as defined in Guideline 9 in the "Guidelines on submission of information to national competent authorities" perform an assessment of whether the group would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements on the Solvency II technical provisions starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital requirements and on the calculation of technical provisions will be provided.
- 1.28. National competent authorities should allow that undertakings and groups which are in the pre-application process for an internal model make use of this model for the purpose of the assessments on regulatory capital requirements,

provided that the undertakings and groups concerned also perform the assessment for preparing for the eventuality that the application to use the internal model under Solvency II would be rejected by the national competent authority.

- 1.29. Where an undertaking which is not in the pre-application process for an internal model falls within the threshold referred to in the paragraph 1.26 and a group falls within the threshold referred to in paragraph 1.27., for the calculation of the Solvency II regulatory capital requirements national competent authorities should require the undertaking or the group to perform an assessment of the significance of the deviation of its risk profile from the assumptions underlying the Solvency II Solvency Capital Requirement calculation, starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital requirements and on the calculation of technical provisions will be provided.

Section II: Forward Looking Assessment of Own Risks

Guideline 4 – Proportionality

- 1.30. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking develops for the forward looking assessment of own risks its own processes with appropriate and adequate techniques, tailored to fit into its organisational structure and risk-management system and taking into consideration the nature, scale and complexity of the risks inherent to the business.

Guideline 5 – Role of the administrative, management or supervisory body: top-down approach

- 1.31. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the administrative, management or supervisory body of the undertaking takes an active part in the forward looking assessment of own risks, including steering, how the assessment is to be performed and challenging the results.

Guideline 6 – Documentation

- 1.32. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking has at least the following documentation on the forward looking assessment of own risks:
 - a) The policy for the forward looking assessment of own risks;
 - b) record of each forward looking assessment of own risks;
 - c) an internal report on each forward looking assessment of own risks; and
 - d) a supervisory report of the forward looking assessment of own risks.

Guideline 7 – Policy for the forward looking assessment of own risks (based on the ORSA principles)

- 1.33. In accordance with Articles 41 and 45 of Solvency II Directive, national competent authorities should ensure that the administrative, management or

supervisory body of the undertaking approves the policy for the forward looking assessment of own risks. This policy should include at least:

- a) a description of the processes and procedures in place to conduct the forward looking assessment of own risks;
- b) a consideration of the link between the risk profile, the approved risk tolerance limits and the overall solvency needs; and
- c) information on:
 - (i) how and how often stress tests, sensitivity analyses, reverse stress tests or other relevant analyses are to be performed;
 - (ii) data quality standards; and
 - (iii) the frequency of the assessment itself and the justification of its adequacy particularly taking into account the undertaking's risk profile and the volatility of its overall solvency needs relative to its capital position; and
 - (iv) the timing for the performance of the forward looking assessment of own risks and the circumstances which would trigger the need for a forward looking assessment of own risks outside of the regular time-scales.

Guideline 8 – Record of each forward looking assessment of own risks (based on the ORSA principles)

- 1.34. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking appropriately evidences and internally documents each forward looking assessment of own risks and its outcome.

Guideline 9 – Internal report on the forward looking assessment of own risks (based on the ORSA principles)

- 1.35. In accordance with Article 41, 44 and 45 of Solvency II Directive, national competent authorities should ensure that the undertaking communicates to all relevant staff at least the results and conclusions regarding the forward looking assessment of own risks, once the process and the results have been approved by the AMSB.

Guideline 10 – Supervisory Report of the forward looking assessment of own risks (based on the ORSA principles)

- 1.36. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking submits the supervisory report of the forward looking assessment of own risks within 2 weeks of the AMSB having reviewed and approved the assessments. The supervisory report should present at least the following:

- a) the qualitative and quantitative results of the forward looking assessment and the conclusions drawn by the undertaking from those results;
- b) the methods and main assumptions used; and

- c) where applicable according to the thresholds introduced, a comparison between the overall solvency needs, the regulatory capital requirements and the undertaking's own funds.

Section III: Specific features regarding the performance of the forward looking assessment of own risks (based on the ORSA principles)

Guideline 11 – Valuation and recognition of the overall solvency needs

- 1.37. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking, if it uses recognition and valuation bases that are different from the Solvency II bases in the assessment of its overall solvency needs, explains how the use of such different recognition and valuation bases ensures better consideration of the specific risk profile, approved risk tolerance limits and business strategy of the undertaking, while complying with the requirement for a sound and prudent management of the business.
- 1.38. National competent authorities should ensure that the undertaking quantitatively estimates on best effort basis the impact on the overall solvency needs assessment of the different recognition and valuation bases in those cases where recognition and valuation bases that are different from the Solvency II bases have been used in the assessment of its overall solvency needs starting in 2015 under the condition that the technical specifications have been provided by EIOPA.

Guideline 12 – Assessment of the overall solvency needs

- 1.39. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking assesses its overall solvency needs and then expresses the overall solvency needs in quantitative terms and complements the quantification by a qualitative description of the material risks.
- 1.40. Where appropriate, national competent authorities should ensure that the undertaking subjects the identified material risks to a sufficiently wide range of stress test or scenario analyses in order to provide an adequate basis for the assessment of the overall solvency needs.

Guideline 13 – Forward-looking perspective of the overall solvency needs

- 1.41. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking's assessment of the overall solvency needs is forward-looking, including a medium term or long term perspective as appropriate.

Guideline 14 – Regulatory capital requirements

- 1.42. In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that as part of this assessment the undertaking analyses whether the undertaking

would comply on a continuous basis with the Solvency II regulatory capital requirements and includes at least:

- a) the potential future material changes in the risk profile;
- b) the quantity and quality of its own funds over the whole of its business planning period; and
- c) the composition of own funds across tiers and how this composition may change as a result of redemption, repayment and maturity dates during its business planning period.

Guideline 15 – Technical provisions

1.43. In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that the undertakings ensures the actuarial function of the undertaking to:

- a) provide input as to whether the undertaking would comply continuously with the requirements regarding the calculation of technical provisions; and
- b) identify potential risks arising from the uncertainties connected to this calculation.

Guideline 16 – Deviations from assumptions underlying the SCR calculation

1.44. In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that the undertaking assesses whether its risk profile deviates from the assumptions underlying the Solvency II Solvency Capital Requirement calculation and whether these deviations are significant. The undertaking may as a first step perform a qualitative analysis and if that indicates that the deviation is not significant, a quantitative assessment is not required.

Guideline 17 – Link to the strategic management process and decision-making framework

1.45. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking takes into account the results of the forward looking assessment of own risks and the insights gained during the process of this assessment in at least:

- a) its capital management;
- b) its business planning; and
- c) its product development and design.

Guideline 18 – Frequency

1.46. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the undertaking performs the forward looking assessment of own risks at least annually.

Section IV: Specificities of the Group in the forward looking assessment of own risks (based on the ORSA principles)

Guideline 19 – Scope of group forward looking assessment of own risks (based on the ORSA principles)

1.47. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity designs the group forward looking assessment of own risks to reflect the nature of the group structure and its risk profile. All of the entities that fall within the scope of group supervision should be included within the scope of the group forward looking assessment of own risks. This should include insurance, reinsurance, non-insurance and non-reinsurance undertakings, and both regulated and non-regulated entities, situated in the EEA and outside the EEA.

Guideline 20 – Reporting to the supervisory authorities

1.48. In accordance with Articles 45 and 246 of Solvency II Directive and in case the responsible entity applies for the submission of a single forward looking assessment of own risks' document:

- a) The group supervisor should form a view whether to allow the group to perform a single forward looking assessment of own risks document, if there is no other decision process in force in the college, and if no member that would otherwise receive an individual forward looking assessment of own risks document disagrees; and
- b) where one or more of the subsidiaries has its head office in a Member State whose official languages are different from the languages in which the single forward looking assessment of own risks document is reported, the supervisory authority concerned should consult with the group supervisor, the college of supervisors and the group itself before requiring the undertaking to translate the part of the forward looking assessment of own risks document that concerns the subsidiary into an official language of the Member State in which the subsidiary has its head office.

Guideline 21 – Assessment of the impact of group specific risks on overall solvency needs

1.49. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity in the group forward looking assessment of own risks adequately assesses the impact of all group specific risks and interdependencies within the group as well as, and the impact of these risks and interdependencies on the overall solvency needs, taking into consideration the specificities of the group and the fact that some risks may be scaled up at the level of the group.

Guideline 22- General rule for group forward looking assessment of own risks (based on the ORSA principles)

1.50. In accordance with Articles 45 and 246 of Solvency II Directive and in accordance with Guideline 8 on the record of each forward looking assessment

of own risks, national competent authorities should ensure that the responsible entity includes in the record of the group forward looking assessment of own risks at least a description on how the following factors were taken into consideration for the assessment of overall solvency needs and the assessment of continuous compliance with regulatory requirements³:

- a) The identification of the sources of own funds within the group and if there is a need for additional own funds;
- b) the assessment of availability, transferability or fungibility of own funds;
- c) references to any planned transfer of own funds within the group, which would have a material impact on any entity of the group, and its consequences;
- d) alignment of individual strategies with the ones established at the level of the group; and
- e) specific risks the group could be exposed to.

Guideline 23 – Specific requirements for a single forward looking assessment of own risks’ document

1.51. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity, when applying to submit a single forward looking assessment of own risks’ document, provides an explanation of how the subsidiaries are covered and how the AMSBs of the subsidiaries are involved in the assessment process and approval of the outcome.

Guideline 24 – Internal model users

1.52. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that, in the case of an internal model pre-application, the responsible entity describes in the group forward looking assessment of own risks which entities within the group do not use the internal model to calculate their SCR and explain why this is the case.

Guideline 25 – Integration of related third-country insurance and re-insurance undertakings

1.53. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity assesses in the assessment of the group overall solvency needs the risks of the business in third countries in a consistent manner as it does for EEA-business with special attention to the assessment of transferability and fungibility of capital.

Compliance and Reporting Rules

1.54. This document contains Guidelines issued under Article 16 of the EIOPA Regulation. In accordance with Article 16(3) of the EIOPA Regulation,

³ The assessment of the continuous compliance is expected from those groups within in the threshold.

Competent Authorities shall make every effort to comply with guidelines and recommendations.

- 1.55. Competent authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or supervisory framework in an appropriate manner.
- 1.56. Competent authorities shall confirm to EIOPA whether they comply or intend to comply with these Guidelines, with reasons for non-compliance, within two months after the publication.
- 1.57. In the absence of a response by this deadline, competent authorities will be considered as non-compliant to the reporting.

Final Provision on Review

- 1.58. These Guidelines shall be subject to a review by EIOPA.
- 1.59. In particular, the year of 2015 referred to in Guideline 3 may be revised based on the latest developments on the OMDII negotiations.