

Guidelines on supervisory review process

Introduction

- 1.1. According to 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 (hereafter Solvency II Directive)¹ and Article 16 of Regulation (EU) 1904/2010 of 24 November 2010 (hereafter EIOPA Regulation)² EIOPA has developed guidelines on supervisory review process. These guidelines relate to Article 36 of the Solvency II Directive. Further relevant provisions are in particular Articles 27, 29, 34, 71, 213(2), 248, 249, 250 and 255 of the Solvency II Directive.
- 1.2. These Guidelines aim at identifying the manner in which a risk-based, prospective and proportionate approach to supervision may be achieved within the supervisory review process.
- 1.3. The supervisory review process refers to all the activities conducted by the supervisory authority in order to comply with its obligations arising under Article 36 of the Solvency II Directive that includes the evaluation of strategies, processes and reporting procedures in insurance and reinsurance undertakings which they have established in order to comply with Solvency II.
- 1.4. Therefore the objective of these Guidelines is to attain consistent outcomes through the convergence of supervisory processes and practices within the supervisory review process, whilst ensuring sufficient flexibility for national supervisory authorities to be able to appropriately adapt their actions on a case-by-case basis, taking into account the specificities of the insurance and reinsurance undertakings and groups involved, their own markets and other supervisory priorities.
- 1.5. These Guidelines are summarised in the diagram presented in the explanatory text of Guideline 1 and in the document "SRP Guidelines Diagram" published together with these Guidelines³.
- 1.6. For the supervisory review process of insurance groups where there is a college of supervisors in place, these Guidelines have taken into consideration the Guidelines on operational functioning of colleges⁴, the college's specific coordination arrangements and any other processes or plans agreed by the college of supervisors.
- 1.7. These Guidelines are not intended to restrict the group supervisor and the college of supervisors from additional communications or information sharing arrangements that are consistent with the Solvency II Directive, including the proportionate and risk-based approach of the supervisory review process in line with Article 29 of the Solvency II Directive.

¹ OJ L 335, 17.12.2009, p. 1155

² OJ L 331, 15.12.2010, p. 48–83

³ <https://eiopa.europa.eu/publications/eiopa-guidelines/index.html>

⁴ <https://eiopa.europa.eu/publications/eiopa-guidelines/index.html>

- 1.8. National supervisory authorities that are part of a college will have ongoing responsibilities to communicate and involve the college in the supervisory review process, particularly when taking supervisory measures, or when insurance and reinsurance undertakings or groups enter into financial difficulties. Where appropriate, examples with cross references to various requirements and Guidelines are provided in the explanatory text. The Guidelines are addressed to supervisory authorities under Solvency II.
- 1.9. These Guidelines apply to the supervisory review process performed by national supervisory authorities regarding all insurance and reinsurance undertakings, both individual undertakings subject to the Solvency II Directive and insurance and reinsurance groups subject to group supervision under Article 213(2) (hereinafter insurance groups). Regarding the application of the Guidelines to the supervisory review process of the insurance groups the following needs to be considered⁵:
- Guidelines 10, 16, 18, 21, 35, 37 and 40 are group-specific and are only applicable to the group supervisor, with the exception of Guidelines 37 and 40 which can apply to both group supervisor and individual national supervisory authority;
 - Guidelines 15 and 17 apply only to supervisory authorities for individual insurance and reinsurance undertakings and don't apply to supervisory authorities in their role as group supervisor. The group supervisor should comply with the relevant group-specific Guidelines 16 and 18;
 - Guidelines 5, 6, 7, 11, 13, 19, 21, 23, 25, 28, 29, 32, 37, 39 and 40 also include provisions that apply only if the insurance group has a college that is established under Article 248(2) of the Solvency II Directive. These provisions may apply to both the group supervisor and national supervisory authorities of the individual insurance and reinsurance undertakings within the college, with the exception of Guideline 21, which only applies to the group supervisor.
- 1.10. Where there is group supervision established at national level pursuant to Article 216 of the Solvency II Directive, these Guidelines apply *mutatis mutandis* to both: group supervision carried out at national level under Article 216 of the Solvency II Directive and group supervision carried out under Article 213(2) of the Solvency II Directive.
- 1.11. For the purpose of these Guidelines the following definitions apply:
- When applying these Guidelines to group supervisors:
 - the term "national supervisory authority" refers to the supervisory authority responsible for group supervision pursuant to Article 247(1) of the Solvency II Directive;
 - When applying these Guidelines to group supervisors, the term "insurance and reinsurance undertakings" refers to "insurance groups"

⁵ Please find a table of the Guidelines that apply to individual and to group or to both in the Appendix published with the Explanatory text of the Public Consultation.

(excluding guidelines 12, 19, 33, 36 and 38, which refer to both groups and the undertakings within the group);

- “Group supervisor” refers to the supervisory authority that fulfils the criteria set out in Article 247(1) of the Solvency II Directive;
- “College” refers to the college of supervisors as defined in Article 212(1)(e) of the Solvency II Directive;
- “Members” and “participants” refer to members and participants as defined in the Guidelines on operational functioning of colleges;
- “On-site inspection” refers to an organised assessment or formal evaluation exercise, performed at the location of the supervised undertaking, or the service providers to whom the supervised undertaking has outsourced functions, which leads to the issuing of a document communicated to the undertaking.

1.12. If not defined in these Guidelines the terms have the meaning defined in the legal acts referred to in the introduction.

1.13. The Guidelines shall apply from 1 January 2016.

Section I - Overall supervisory review process (SRP)

Guideline 1 – Conducting the supervisory review process

- 1.14. The national supervisory authority should, in carrying out the supervisory review process and whilst recognising the need for flexibility and supervisory judgement, ensure it comprises three sub-processes as set out in these Guidelines: the risk assessment framework, the detailed review and the supervisory measures.

Guideline 2 – Consistency of the supervisory review process

- 1.15. The national supervisory authority should ensure that the supervisory review process is applied in a consistent manner over time, across insurance and reinsurance undertakings and within the national supervisory authority.

Guideline 3 – Proportionality in the supervisory review process

- 1.16. The national supervisory authority should ensure that the principle of proportionality is observed throughout all the stages of the supervisory review process.

Guideline 4 – Supervisory judgement in the supervisory review process

- 1.17. The national supervisory authority should ensure that supervisors use their supervisory judgement at each stage of the supervisory review process. The national supervisory authority should ensure that the supervisory review process is kept flexible enough to allow appropriate supervisory judgement to be used.

Guideline 5 – On-going communication with insurance and reinsurance undertakings

- 1.18. The national supervisory authority should ensure that there is an appropriate level of communication between the personnel of the national supervisory authority and the insurance and reinsurance undertaking throughout the entire supervisory review process in order to facilitate effective supervision.
- 1.19. If there is a college, the communication with the supervised undertakings should be coordinated as described in Guideline 15 of the Guidelines on operational functioning of colleges.

Guideline 6 – On-going communication with and involvement of other supervisors

- 1.20. The national supervisory authority should undertake an appropriate level of communication and involvement with other relevant national supervisory authorities throughout the entire supervisory review process.
- 1.21. Communication with third-country supervisory authorities should be in line with any relevant memoranda of understanding in place.
- 1.22. If there is a college, communication should follow the relevant requirements and guidelines.

Guideline 7 – Inclusion of market-wide risks in the supervisory review process

- 1.23. The national supervisory authority should take into account market wide analyses throughout the supervisory review process.
- 1.24. If there is a college the supervisory authority should take into account the outcome of any relevant market-wide analysis that has been shared within the college.

Guideline 8 – Documentation

- 1.25. The national supervisory authority should ensure that information supporting the conclusions from the supervisory review process is documented and easily accessible within the national supervisory authority whilst also observing appropriate confidentiality standards in relation to this information.

Guideline 9 – Governance over and regular review of the supervisory review process

- 1.26. The national supervisory authority should have an adequate governance mechanism in place to properly monitor the conduct of the supervisory review process.
- 1.27. The national supervisory authority should regularly review their method of implementation of the supervisory review process to ensure its on-going appropriateness.

Guideline 10 – The scope and focus of the insurance group supervisory review process

- 1.28. The group supervisor should apply the supervisory review process consistently with the scope and cases of application of group supervision described in Title III, Chapter I of the Solvency II Directive, taking into account the type of the ultimate parent undertaking of the insurance group, the geographical location of its head office (EEA or a third country), the equivalence status of the third country, if any, and any financial conglomerate aspects.
- 1.29. The group supervisor should consider in the supervisory review process all relevant entities within the insurance group including regulated and non-regulated as well as EEA and non-EEA entities.
- 1.30. The group supervisor should focus on the group-specific issues, including:
 - a) intra-group transactions, complexity and interconnectedness of the insurance group;
 - b) the group risk profile including any diversification effects, risk concentrations and risk transfer across the insurance group;
 - c) any other risks from a group-wide perspective, including those that arise at group level, such as risks from non-insurance entities;
 - d) aspects of the group governance and group strategy including any conflict or any potential conflict of interests;
 - e) aspects of the group-wide risk management, including any centralised risk management functions; and

- f) the group's management of its group capital, including transferability and allocation within the insurance group.

Section II- Input to the supervisory review process

Guideline 11 – Input to the supervisory review process

- 1.31. Throughout the supervisory review process the national supervisory authority should, where appropriate, consider relevant information arising from different sources, including from:
- a) the insurance and reinsurance undertaking or the insurance group: quantitative reporting templates, regular supervisory report, solvency and financial condition report, ORSA report, other undertaking or group information or any other information requested from the insurance and reinsurance undertaking or insurance group by the national supervisory authority;
 - b) the national supervisory authority or the group supervisor itself: historical information, early warning indicators, risk indicators, previous findings on insurance and reinsurance undertakings or groups, thematic reviews or stress tests results;
 - c) the college: individual outcomes of the risk assessment framework, individual supervisory plans shared within the college, college work plan, any relevant analysis or reviews or supervisory measures shared within the college;
 - d) other competent authorities;
 - e) other external parties: market or sector information, information from consumer or industry bodies or associations, technical research papers or press or media information.

Section III - Risk assessment framework

Guideline 12 – Risk assessment framework structure and use

- 1.32. The national supervisory authority should use a risk assessment framework to identify and assess current and future risks that insurance and reinsurance undertakings face or may face including the insurance and reinsurance undertaking's capacity to identify, measure, monitor, manage and report on those risks.
- 1.33. The national supervisory authority should use this approach for the purposes of:
- a) conducting the effective supervision of insurance and reinsurance undertakings;
 - b) prioritising supervisory activities;
 - c) setting the frequency of the regular supervisory reporting;

- d) determining the scope, depth and frequency of off-site analysis and on-site inspections or any other matters needed for the supervision of insurance and reinsurance undertakings.

Guideline 13 – Scope of the risk assessment framework

- 1.34. The national supervisory authority should apply a risk-based and forward-looking approach to supervision that is established in the following stages:
- a) assessment of information;
 - b) determination of insurance and reinsurance undertaking impact classification;
 - c) determination of insurance and reinsurance undertaking risk classification;
 - d) determination of outcome of risk assessment framework;
 - e) creation of supervisory plan and determination of intensity of supervision.
 - f) in the case of insurance groups, if there is a college established under Article 248(2) of the Solvency II Directive, the contribution of aspects of the supervisory plan to the college work plan, where appropriate.

Guideline 14 – Assessment of information

- 1.35. The national supervisory authority should perform at least a high-level assessment of the information when regular reporting is received and consider the need to reappraise the components of the risk assessment framework.

Guideline 15 – Determination of undertaking impact classification

- 1.36. The national supervisory authority should include in the risk assessment framework an assessment of the potential impact of all insurance and reinsurance undertakings. This assessment should reflect the potential impact that the failure of a particular undertaking would have on its policyholders and beneficiaries and on the market.
- 1.37. The national supervisory authority should assign an impact classification to each undertaking on a scale with 4 categories, being 'Impact class 1' the lowest impact on policyholders and beneficiaries and on the market and 'Impact class 4' the highest impact on policyholders and beneficiaries and on the market.

Guideline 16 – Determination of impact classification for groups

- 1.38. The group supervisor should include in the group risk assessment framework an impact classification for all insurance groups.
- 1.39. The impact classification at insurance group level should reflect the potential impact of the failure of the insurance group, through its entities, on the group's policyholders and beneficiaries, and on the markets where the insurance group is active.
- 1.40. The group supervisor should, when assigning an impact classification, take into account the complexity and inter-connectedness of the insurance group.
- 1.41. The group supervisor should assign an impact classification to each insurance group on a scale with 4 categories being 'Impact class 1' the lowest impact of the insurance group on policyholders and beneficiaries and on the market and

'Impact class 4' the highest impact of the insurance group on policyholders and beneficiaries and on the market.

Guideline 17 – Determination of undertaking risk classification

- 1.42. The national supervisory authority should identify and assess the current and future risks that insurance and reinsurance undertakings face or may face, including the ability of the undertaking to withstand possible events or future changes in economic conditions and their potential adverse effect on the solvency and financial position, the viability of the undertaking and its ability to meet its obligations to policyholders and beneficiaries if the risks materialise.
- 1.43. The national supervisory authority should carry out this risk identification and assessment for all insurance and reinsurance undertakings taking into account quantitative and qualitative criteria and measures relevant to each undertaking.
- 1.44. The national supervisory authority should assign insurance and reinsurance undertakings a risk classification on a scale with 4 categories: from 'Risk class 1' that corresponds to being best able to withstand the risks materialising, to 'Risk class 4' that corresponds to being least able to withstand the risks materialising.

Guideline 18 – Determination of the risk classification for insurance group

- 1.45. The group supervisor should identify and assess the current and future group level risks that could affect the insurance group, including the ability of the group to withstand possible events or future changes in economic conditions and their potential adverse effect on the solvency and financial position, the viability of the insurance group and the group's individual insurance and reinsurance undertakings' abilities to meet their obligations to policyholders and beneficiaries if the risks materialise.
- 1.46. The group supervisor should, when assessing the risks of the insurance group, consider the group-specific issues outlined in Guideline 10.
- 1.47. The group supervisor should carry out this risk identification and assessment for all insurance groups taking into account quantitative and qualitative criteria and measures relevant to the insurance group.
- 1.48. The group supervisor should assign a risk classification to each insurance group on a scale with 4 categories: from 'Risk class 1' that corresponds to being best able to withstand the risks materialising, to 'Risk class 4' that corresponds to being least able to withstand the risks materialising.

Guideline 19 – Determination of outcome of the risk assessment framework

- 1.49. The national supervisory authority should ensure that the risk assessment framework outcome for all insurance and reinsurance undertakings and groups includes an impact classification and a risk classification, whether combined or not, and that they are used together with other relevant supervisory information for the purpose of setting the supervisory plan.
- 1.50. If there is a college, when exchanging the outcomes of the risk assessment framework (group and individual) the group supervisor and the other supervisory authorities should be able to explain the rationale of the outcome

so to enable the college to form a shared view of the risks of the insurance group.

Guideline 20 – Creation of supervisory plan and determination of intensity of supervision

- 1.51. The national supervisory authority should utilise the outcome of the risk assessment framework together with the details of the risks identified, the various priorities and constraints of the national supervisory authority and other relevant supervisory information to develop the supervisory plan.
- 1.52. The supervisory plan should set out the frequency and intensity of supervisory activities for each undertaking. The supervisory plan should be commensurate to the nature, scale and complexity of the undertaking.

Guideline 21 – Interaction between the group supervisory plan and the college work plan

- 1.53. If there is a college, the group supervisor should include the relevant aspects of the group supervisory plan in the college work plan (as set out in Guideline 12 of the Guidelines on operational functioning of colleges) for discussion and action within the college.
- 1.54. Relating to the group supervisory review process, the college work plan should include:
 - a) a description of the main risks being focused on as a result of the outcome of the group risk assessment framework;
 - b) descriptions and rationale of the activities to be carried out within the college on the basis of the group supervisory plan;
 - c) the identification of the relevant entities within the insurance group and their supervisory authorities that the group supervisor is likely to seek input from.

Guideline 22 – Governance of the supervisory plan

- 1.55. The national supervisory authority should ensure that the appropriateness of the supervisory plan is subject to suitable oversight and internal governance within the supervisory authority.

Guideline 23 – Notification of the frequency of regular supervisory report

- 1.56. The national supervisory authority should notify insurance and reinsurance undertakings of the frequency of the regular supervisory report required, be it annually, every two or three years as well as any subsequent change to that, as soon as possible and no later than three months in advance of the insurance and reinsurance undertakings' financial year end.
- 1.57. The decision on frequency should, at least, take the outcome of the risk assessment framework, other supervisory information and the exercise of supervisory judgement into consideration.
- 1.58. If there is a college, the supervisory authorities should communicate changes to the regular supervisory report frequency to the group supervisor before notifying the insurance and reinsurance undertakings if appropriate.

Guideline 24 – Update of the risk assessment framework

- 1.59. The national supervisory authority should, throughout the supervisory review process, consider if it is necessary to update the outcome of the risk assessment framework.

Section IV - Detailed Review

Guideline 25 – Detailed review activities

- 1.60. The national supervisory authority should carry out detailed review activities, whether off-site analysis or on-site inspections, based on the supervisory plan, taking into account all relevant information and focusing on the areas of risk as identified in the risk assessment framework.
- 1.61. If there is a college the supervisory authorities should also refer to the college work plan when carrying out the detailed review activities with regard to any participation of other national supervisory authorities in line with the Guidelines on operational functioning of colleges.

Guideline 26 – Request for additional information during the detailed review

- 1.62. The national supervisory authority should, where appropriate, evaluate the need for additional information from the undertaking, including various types of data, analyses or tasks to be performed by the undertaking. The timeframe allowed by the supervisory authority for the provision of additional information should be appropriate in order for the undertaking to be able to answer the request.

Guideline 27 – Detailed review conclusions

- 1.63. The national supervisory authority should ensure that the main findings and conclusions of the detailed review are recorded and internally accessible for supervisory purposes.

Guideline 28 – Detailed off-site analyses

- 1.64. The national supervisory authority should, as defined in the supervisory plan and taking into account the college work plan, if there is a college, use off-site analyses to carry out further activities beyond the high level assessment of information performed in the risk assessment framework, focusing on the specified risk areas.

Guideline 29 – On-site inspections

- 1.65. The national supervisory authority should carry out regular on-site inspections if defined in the supervisory plan and take into account the college work plan, if there is a college, or other ad-hoc on-site inspections as appropriate.

Guideline 30 – Governance of on-site inspections

- 1.66. The national supervisory authority should have adequate governance mechanisms in place which allow them to properly monitor the on-site inspections.

Guideline 31 – Process to follow for on-site inspections

- 1.67. The national supervisory authority should consider, for the on-site inspection, the following phases: preparation, field work and written conclusions.

Guideline 32 – Written conclusions of on-site inspections

- 1.68. The national supervisory authority should communicate the conclusions of the on-site inspection in writing to the insurance and reinsurance undertaking and should allow the undertaking to respond to the conclusions within a reasonable timeframe as set by the supervisory authority. The supervisory authority should communicate these conclusions to those persons who effectively run the undertaking and are considered appropriate in that context.
- 1.69. If there are other supervisory authorities involved in the on-site inspection, the supervisors should discuss the conclusions that will be communicated to the relevant insurance and reinsurance undertakings that are part of the insurance group before communicating them.

Section V - Supervisory Measures

Guideline 33 – Identification of matters leading to the supervisory measures

- 1.70. The national supervisory authority should, based on the conclusions of the detailed review, identify any weaknesses and actual or potential deficiencies or non-compliances with requirements that could lead them to imposing supervisory measures.

Guideline 34 – Assessment of the significance of weaknesses, deficiencies or non-compliances

- 1.71. The national supervisory authority should, in order to decide upon measures, assess the significance of the weaknesses and the actual or potential deficiencies or non-compliances identified in the detailed review.

Guideline 35 – Identification and assessment of the significance of weaknesses, deficiencies or non-compliances at group level

- 1.72. The group supervisor identifies and assesses any weaknesses and actual or potential deficiencies or non-compliance from a group-wide perspective, taking into account the specificities of the insurance group structure and business and the interconnectedness of the insurance and reinsurance group.
- 1.73. The group supervisor should consider whether the findings on weaknesses and actual or potential deficiencies or non-compliance from a group-wide perspective relate to the insurance group as a whole or to some specific insurance and reinsurance undertakings.

Guideline 36 – Different measures for varying situations

- 1.74. The national supervisory authority should take measures that vary according to the level of significance of the weaknesses and the actual or potential deficiencies or non-compliances faced by the insurance and reinsurance undertakings.

Guideline 37 – Decision upon measures at group or individual level

- 1.75. The national supervisory authorities responsible for the supervision of the relevant insurance and reinsurance undertakings or the group supervisor, in case of measures related to the insurance group as a whole, should take the necessary measures against the appropriate undertaking based on their analysis of the findings on the weaknesses, deficiencies or non-compliances.
- 1.76. Where measures are taken both at group and individual levels, the group supervisor and the supervisory authorities should coordinate measures, where appropriate, to enhance the effectiveness of the measures.

Guideline 38 – Governance over exercise of measures

- 1.77. The national supervisory authority should have a suitable governance process on the exercise of supervisory measures in place to ensure that they are used in a consistent, proportionate and objective manner and that they are properly documented.

Guideline 39 – Notification of measures

- 1.78. The national supervisory authority should notify the undertaking in writing and on a timely basis about the specific measures that the undertaking should implement. This notification should, where appropriate, include a specification of the appropriate timeframe in which the undertaking is to implement the actions necessary to comply with the measures.
- 1.79. If there is a college and where more than one supervisor takes measures, the supervisory authorities should consider coordinating their communication strategy.

Guideline 40 – Communication in the college

- 1.80. If there is a college, the national supervisory authority should, where appropriate, communicate to the group supervisor the supervisory measures taken.

Guideline 41 – Monitoring implementation by insurance and reinsurance undertakings

- 1.81. The national supervisory authority should monitor whether the measures are properly implemented by insurance and reinsurance undertakings.

Guideline 42 – Review of supervisory measures

- 1.82. The national supervisory authority should review the measures and update the supervisory plan in response to the degree of effectiveness of the supervisory measures as implemented by the undertaking.

Compliance and Reporting Rules

- 1.83. This document contains Guidelines issued under Article 16 of the EIOPA Regulation. In accordance with Article 16(3) of the EIOPA Regulation, Competent Authorities and financial institutions shall make every effort to comply with guidelines and recommendations.

- 1.84. Competent authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or supervisory framework in an appropriate manner.
- 1.85. 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 issuance of the translated versions.
- 1.86. In the absence of a response by this deadline, competent authorities will be considered as non-compliant to the reporting and reported as such.

Final Provision on Reviews

- 1.87. These Guidelines shall be subject to a review by EIOPA.