EIOPA-CP-11/008
7 November 2011

Consultation Paper
On the Proposal for
Guidelines
on
Own Risk and Solvency Assessment

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1. Responding to this paper

EIOPA welcomes comments on the guidelines and recommendation on the Own Risk and Solvency Assessment.

The consultation package includes:

- The Consultation Paper
- Template for comments

Please send your comments to EIOPA in the provided Template for Comments, by email cp008@eiopa.europa.eu, by 20 January 2012.

Contributions not provided in the provided template for comments, or sent to a different email address, or after the deadline will not be processed.

EIOPA invites comments on any aspect of this paper and in particular on the specific questions summarised in Annex II. Comments are most helpful if they:

- respond to the question stated;
- contain a clear rationale; and
- describe any alternatives EIOPA should consider.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise in the respective field in the template for comments. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with EIOPA's rules on public access to documents[1]. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by EIOPA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.eiopa.europa.eu under the heading 'Legal notice'.

[1] https://eiopa.europa.eu/fileadmin/tx_dam/files/aboutceiops/Public-Access-(EIOPA-MB-11-051).pdf

2. Consultation Paper Overview & Next Steps

EIOPA carries out consultations in the case of Guidelines in accordance to Article 16 (2) of the EIOPA Regulation.

This Consultation Paper is being issued in the frame of the development by EIOPA of the measures which should facilitate the convergent implementation of Solvency II.

This Consultation Paper presents the draft guidelines, explanatory text, and a technical annex where relevant.

The analysis of the expected impact from the proposed policy is covered under the Annex I (Impact Assessment) and includes the chronology and results of previous consultations [where applicable].

Specific questions to the guidelines, explanatory text and/or technical annex are being asked for the purpose of the consultation and should be answered by using the template for comments provided by EIOPA. Annex II comprises the overview of all questions asked.

3. Guidelines on Own Risk and Solvency Assessment

Introduction

3.1. Having regard to Article 45, 246(4) and recital 36 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) [2], hereinafter referred to as the "Directive" or as "Solvency II" ,and aware of the uncertainty as to the demands of the ORSA, the present Level 3 guidelines seek to provide additional details on how the ORSA required by the Directive is to be interpreted.

3.2. The guidelines focus on what is to be achieved by the ORSA rather than on how it is to be performed. With the overall solvency needs assessment representing the undertaking's own view of its risk profile and capital needs and other means needed to appropriately address these risks, the undertaking should decide for itself how to perform this assessment appropriately given the nature, scale and complexity of its risks.

3.3. The guidelines apply to both solo undertakings and to group level undertakings. Additionally, the guidelines - in a separate section - address issues relevant to the ORSA for groups, in particular on account of specific risks to the group or risks that could be less relevant at solo level than at group level.

3.4. The guidelines apply similarly to standard formula and internal model users with some additional explanations dedicated specifically to the latter.

3.5. The guidelines cover general issues such as the principle of proportionality, the role of the administrative, management or supervisory body and documentation of the ORSA, as well as specific issues, for example, the assessment of the overall solvency needs, the continuous compliance with the requirements on regulatory capital and technical provisions and the deviations from assumptions underlying the SCR calculation. However, they do not consider the role of the supervisory authority. This will be covered by the guidelines on the Supervisory Review Process.

[2] OJ L 335, 17.12.2009.

Whereas,

3.6. It is crucial that the administrative, management or supervisory body (AMSB) is aware of all risks the undertaking faces, regardless of whether the risks are included in the SCR calculation or whether they are easily quantifiable or not and that the AMSB also takes an active role in the ORSA process, directing and challenging the performance.

3.7. The assessment of the overall solvency needs does not necessarily call for a complex approach. But it would have to be sufficiently comprehensive to effectively reflect the risks.

3.8. The assessment of the significance of any deviations between the undertaking-specific risk profile and the assumptions underlying the SCR calculation requires that the risk profile of the undertaking as established for the ORSA and as part of the SCR calculation are considered at the same moment in time.

3.9. Internal model users should use the model in the performance of the ORSA and as part of the ORSA process questioning its continued adequacy for reflecting the risk profile of the undertaking.

3.10. The application for the performance of a group-wide ORSA with reporting to the supervisors in a group-wide document requires a high level of consistency in processes across the group and the evidence of full compliance with the requirements of Article 45 at the solo level and Article 246(4) for groups.

3.11. The relevant guidelines for solo undertakings apply mutatis mutandis to the Group ORSA. Additionally, groups need to take into consideration the group specific guidelines.

3.12. In the first case groups are expected to develop the group ORSA supervisory report and in the second the single ORSA supervisory report.

3.13. The Guidelines shall apply from [date].

3.14. For the purpose of these guidelines, the following definitions apply:

- the term “group” is referred to the definitions in Article 212 and 213 of the Directive,
- the term “group ORSA” means the ORSA undertaken at the level of the group,
- the term “group wide ORSA” means the ORSA undertaken at the level of the group and at the level of the subsidiaries at the same time when supervisory agreement is given to do so.

Section I: General considerations

Guideline 1- Principle of proportionality

3.15. The undertaking should develop its own processes for the ORSA, tailored to fit into its organisational structure and risk management system with appropriate and adequate techniques to assess its overall solvency needs, taking into consideration the nature scale and complexity of the risks inherent to the business.

Guideline 2 – Role of the administrative, management or supervisory body (top-down approach).

3.16. The undertaking should ensure that its administrative, management or supervisory body takes an active part in the ORSA process by steering how the assessment is to be performed and challenging its results.

Guideline 3 – Documentation

3.17. The undertaking should have in place at least the following documentation on the ORSA:

a) ORSA policy;

b) record of each ORSA process

c) internal report on ORSA;

d) ORSA supervisory report

Guideline 4 – ORSA policy

3.18. The ORSA policy should comply with the guidelines established under General Governance - Written policies- and include additionally at least:

a) a description of the processes and procedures in place to conduct the ORSA;

b) consideration of the link between the risk profile, the approved risk tolerance limits and the overall solvency needs;

c) information on:

(i) how stress tests/sensitivity analyses are to be performed and how often are to be performed;

(ii) data quality requirements

(iii) the frequency for the performance of the (regular) ORSA and the circumstances which would trigger the need for an ORSA outside the regular timescales.

Section II: Record of each ORSA process

Guideline 5- General rule

3.19. The ORSA process and outcome should be appropriately evidenced and internally documented.

Guideline 6 – Internal report on ORSA

3.20. Once the process and the result of the ORSA have been signed off by the administrative, management or supervisory body, at least information on the results and conclusions regarding the ORSA should be communicated to all staff for whom the information is relevant.

Section III: Specific features regarding the performance of the ORSA

Guideline 7- Assessment of the overall solvency needs

3.21. If the undertaking uses recognition and valuation bases that are different from the Solvency II basis in its assessment of its overall solvency needs, it has to explain how the different recognition and valuation bases ensure 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.

3.22. The undertaking should quantitatively estimate the impact on the overall solvency needs assessment of the different recognition and valuation bases.

Guideline 8 - Assessment of the overall solvency needs

3.23. The undertaking should express the overall solvency needs in quantitative terms and complement the quantification by a qualitative description of the risks.

Guideline 9 - Assessment of the overall solvency needs

3.24. The undertaking should subject the identified risks to a sufficiently wide range of stress test/scenario analyses to provide an adequate basis for the assessment of the overall solvency needs.

Guideline 10- Forward-looking perspective

3.25. The undertaking's assessment of the overall solvency needs should be forward-looking and at least cover separately each year of the business planning period.

Guideline 11- Regulatory capital requirements

3.26. The undertaking should ensure that the ORSA includes:

a) procedures that enable the undertaking to reliably monitor its compliance on a continuous basis with regulatory capital requirements whilst taking into account potential future changes in the risk profile and considering stressed situations;

b) processes and procedures to allow the undertaking to monitor and manage the quality and loss absorbing capacity of its own funds over the whole of its business planning period.

Guideline 12- Technical provisions

3.27. As part of the ORSA process the undertaking should ensure that the actuarial function provides input concerning the continuous compliance with the requirements regarding the calculation of technical provisions and the risks arising from this calculation.

Guideline 13- Deviations from assumptions underlying the SCR calculation

3.28. The undertaking may initially assess deviations between its risk profile and the assumptions underlying the SCR calculation on a qualitative basis. If this assessment indicates that the undertaking's risk profile deviates materially from the assumptions underlying the SCR calculation the undertaking should quantify the significance of the deviation.

Guideline 14- Link to the strategic management process and decision-making framework

3.29. The undertaking should take the results of the ORSA and the insights gained in the process into account at least for the system of governance including long term capital management, business planning and product development and design.

Guideline 15- Frequency of the ORSA

3.30. The undertaking should perform the ORSA at least annually. Notwithstanding this, the undertaking has to establish the frequency of the assessment itself particularly taking into account its risk profile and the volatility of its overall solvency needs relative to its capital position. The undertaking should justify the adequacy of the frequency of the assessment.

Section IV: Group specificities of the ORSA

Guideline 16- Scope of the group ORSA

3.31. The group should design the group ORSA to reflect the nature of the group structure and its risk profile. All of the entities that fall within the scope of the group supervision should be included within the scope of the group ORSA. This includes both (re)insurance and non-(re)insurance undertakings, both regulated and non-regulated (unregulated) entities, situated in the EEA and outside the EEA.

Guideline 17- Reporting to the supervisor

3.32. The document sent to the group supervisor with the outcome of the group ORSA should be in the same language as the group Regular Supervisory Reporting.

3.33. In case of a group wide ORSA, where any of the subsidiaries has its head office in a Member State whose official languages are different from the languages in which the group wide ORSA is reported, the supervisory authority concerned may, after consulting the group supervisor and the college of supervisors, require the undertaking to include a translation of the part of the ORSA information concerning the subsidiary into an official language of that Member State unless exemption has been granted by the supervisory authority concerned.

Guideline 18- Assessment of overall solvency needs

3.34. The group ORSA should adequately identify, measure, monitor, manage and report all group specific risks and the interdependencies within the group and their impact on the group risk profile. This should take into consideration the specificities of the group and the fact that some risks may be scaled up at the level of the group.

Guideline 19- Assessment of overall solvency needs

3.35. The group should explain the key drivers of the overall solvency needs of the group including any diversification effects assumed.

Guideline 20- Froward-looking perspective

3.36. In the context of the group ORSA the group should set the business planning period underlying the group ORSA and explain how the different business planning periods used by group undertakings on the solo level influence the group's forward-looking perspective.

Guideline 21- Internal model users

3.37. Where the group internal model is used in the solvency assessments both at the group and solo undertakings levels, the group should identify entities (if any) which do not use the group internal model and the underlying reasons in the group ORSA's report.

Guideline 22- Criteria and principles for a single ORSA document (group wide ORSA) covering the parent undertaking and its subsidiaries

3.38. When submitting a single ORSA document, subject to the agreement of the group supervisor, the group should provide an explanation on how the subsidiaries are covered and how the subsidiaries' administrative, management or supervisory body is involved in the assessment process and approval of the outcome.

Guideline 23 - Link to strategic decisions

3.39. Where groups report their group ORSA in other additional formats such as according to material business units in their single group wide ORSA report, they should ensure that there is adequate and clearly identifiable documentation for each solo undertaking.

Guideline 24- Integration of related third-country insurance and re-insurance undertakings

3.40. In the group ORSA the group should assess the risks of the business in third countries in the same manner as for EEA-business with special attention to transferability and fungibility of capital and – in case of equivalence, when the deduction and aggregation method applies – the consequences of applying local capital requirements and technical provision calculations instead of the Solvency II framework in third countries.

Compliance and Reporting

3.41. This document contains Guidelines issued under Article 16 of the EIOPA Regulation[3]. In accordance with Article 16(3) of the EIOPA Regulation, Competent Authorities and financial institutions must make every effort to comply with guidelines.

[The following text will be completed after the finalisation of the guidelines. Please also consider Question 9 at the end of this document].

3.42. Competent Authorities shall confirm to EIOPA whether they comply or intend to comply with these Guidelines, with reasons for non-compliance, by [date].

3.43. Financial undertakings shall report whether they comply with the specified [text].

Final Provision on Reviews

3.44. The present Guidelines shall be subject to a review by the Authority by [date].

[3] EIOPA Regulation,

4. Explanatory text

Section I: General considerations

4.1. Article 45 requires the undertaking to perform a regular ORSA as part of the risk management system. The main purpose of the ORSA is to ensure that the undertaking engages in the process of assessing all the risks inherent in its business and determines its corresponding capital needs. To achieve this, an undertaking must have adequate, robust processes for assessing, monitoring and measuring its risks and overall solvency needs, while ensuring that the output from the assessment is embedded into the decision making processes of the undertaking. Conducting an assessment of the overall solvency needs properly involves input from across the whole undertaking. The ORSA is not complied with by just producing a report or by filling templates.

4.2. The assessment of “overall solvency needs” reflects the way undertaking proposes to manage risks they face through capital needs or other mitigation techniques. This takes into consideration its risk profile, approved risk tolerance limits and business strategy. Determining overall solvency needs is expected to contribute to assessing whether to retain or transfer risks, how best to optimise the undertaking’s capital management and how to establish the appropriate premium levels and provides input to other strategic decisions.

4.3. The ORSA will also allow the undertaking to determine the adequacy of its regulatory capital position. This requires the undertaking to ensure that it can meet the regulatory capital requirements in the form of the minimum capital requirement (MCR) and the solvency capital requirement (SCR) at all times. It is also expected to consider whether the SCR, calculated with the standard formula or an internal model, is appropriate given the undertaking’s risk profile.

4.4. An undertaking cannot simply rely on the regulatory capital requirements to be adequate for its business and risk profile. An essential part of risk management involves the undertaking performing its own assessment of the own funds (including amount, quality, etc.) it needs to hold in view of its particular risk exposure and business objectives. Since the risks the undertaking is exposed to translate into solvency needs, looking at risk and capital management separately is not appropriate.

4.5. As the overall solvency needs assessment is an undertaking’s own analysis, undertakings have flexibility in this assessment. However, supervisory expectations are more specific with regard to the continuous compliance with the regulatory capital and technical provisions and the assessment of any deviation between the undertaking’s risk profile and the assumptions underlying the SCR calculation.

Guideline 1- Principle of proportionality (Article 45(2) of the Directive)

The undertaking should develop its own processes for the ORSA, tailored to fit into its organisational structure and risk management system with appropriate and adequate techniques to assess its overall solvency needs, taking into consideration the nature scale and complexity of the risks inherent to the business.

4.6. An undertaking's assessment of its overall solvency needs does not necessarily call for the use of a complex approach. The methods employed may range from (simple) stress tests to more or less sophisticated economic capital models. Where such economic capital models are being used these do not need to meet the requirements of internal models for the calculation of the SCR in accordance with Articles 112 to 126.

4.7. The proportionality principle is to be reflected not only in the level of complexity of the methods used but also in the frequency of the ORSA to be established by the undertaking and in the level of granularity of the different analyses to be included in the ORSA.

Guideline 2- Role of the administrative, management or supervisory body (Article 45 of the Directive)

The undertaking should ensure that its administrative, management or supervisory body takes an active part in the ORSA process by steering how the assessment is to be performed and challenging its results.

4.8. The AMSB approves the ORSA policy and ensures that the ORSA process is appropriately designed and implemented.

4.9. The ORSA is a very important tool for the AMSB of the undertaking providing it with a comprehensive picture of the risks the undertaking is exposed to or could face in the future. It has to enable the AMSB to understand these risks and how they translate into capital needs or alternatively require mitigation actions.

4.10. The AMSB challenges the identification and assessment of risks, and any factors to be taken into account. It also gives instructions on management actions to be taken if certain risks were to materialize.

4.11. As part of the ORSA process the AMSB is also expected to challenge the assumptions behind the calculation of the SCR to ensure they are appropriate in view of the assessment of the undertaking's risks.

4.12. It is also the AMSB's responsibility, taking into account the insights gained from the ORSA process, to approve the long and short term capital planning, whilst considering the business and risk strategies it has decided upon for the undertaking. This plan includes alternatives to ensure that solvency needs can be met even under unexpectedly adverse circumstances.

Guideline 3 – Documentation (Article 45(2) of the Directive)

The undertaking should have in place at least the following documentation on the ORSA:

a) ORSA policy;

b) record of each ORSA process;

c) internal report on ORSA; and

d) ORSA supervisory report.

Guideline 4 – ORSA policy (Article 45(2) of the Directive)

The ORSA policy should comply with the guidelines established under General Governance - Written policies- and include additionally at least:

a) a description of the processes and procedures in place to conduct the ORSA;

b) consideration of the link between the risk profile, the approved risk tolerance limits and the overall solvency needs;

c) information on:

(i) how stress tests/sensitivity analyses are to be developed and how often are to be performed;

(ii) data quality requirements; and

(iii) the frequency for the performance of the (regular) ORSA and the circumstances which would trigger the need for an ORSA outside the regular timescales.

4.13. According to Article 41(3) undertakings are required to have a written policy on risk management. As risk management includes the ORSA, undertakings have to develop an ORSA policy as part of the risk management policy.

Section II: Record of each ORSA process

Guideline 5 – General rule (Article 45 of the Directive)

The ORSA process and outcome should be appropriately evidenced and internally documented.

4.14. The undertaking records the performance of each ORSA and the assessment of any deviations in its risk profile from the assumptions underlying the SCR calculation to a level of detail that enables a third party to evaluate the assessments. The record of each ORSA process includes:

a) The individual risk analysis, including a description and explanation of risks;

b) The links between the risk assessment and the capital allocation process and an explanation of how the approved risk tolerance limits were taken into account;

c) An explanation of how risks not covered with own funds are managed

d) A description of the methods used and an explanation of how these methods were validated. This includes setting out the dependencies used and the confidence level chosen, giving the rationale for the latter. Appropriate documentation in particular includes a description of stress tests and scenario analyses employed and the way their results were taken into account. It further explains how parameter and data uncertainty were assessed;

e) An amount/range of values of the overall solvency needs over a one-year-period, as well as for each year over the business planning period and a description of how the undertaking expects to cover the needs for each of these years;

f) Details on the conclusions and the rationale for them from the assessment of the continuous compliance with the requirements of regulatory capital and technical provisions;

g) The identification and explanation of the differences established from the comparison of the undertaking's risk profile with the assumptions underlying the calculation of the SCR. In case the deviations are considered to be significant in either direction, the internal documentation addresses how the undertaking has reacted or will react;

h) Action plans arising from the assessment and the rationales for them. This requires the documentation to cover any strategies for raising additional own funds where necessary and the proposed timing for actions to improve the undertaking's financial condition;

i) A description of what internal and external factors were taken into consideration in the forward-looking perspective;

j) Details of any planned relevant management actions, including an explanation and a justification for these actions, and their impact on the assessment; and

k) A record of the challenge process performed by the AMSB.

Guideline 6 – Internal report on ORSA (Article 45 of the Directive)

Once the process and the result of the ORSA has been signed off by the administrative, management or supervisory body, at least information on the results and conclusions regarding the ORSA should be communicated to all staff for whom the information is relevant.

4.15. The information communicated has to be sufficiently detailed to ensure that the AMSB is able to use it in its strategic decision-making process and other staff can ensure that any necessary follow-up action will be taken.

4.16. The internal report developed by the undertaking could be the basis of the ORSA supervisory report. If the undertaking considers that the internal report has an appropriate level of detail also for supervisory purposes then the same report may be submitted to the national supervisor.

Section III: Specific features regarding the performance of the ORSA

Guideline 7- Assessment of the overall solvency needs (Article 45(1)(a) and 45(2) of the Directive)

If the undertaking uses recognition and valuation bases that are different from the Solvency II basis in its assessment of its overall solvency needs, it has to explain how the different recognition and valuation bases ensure 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.

The undertaking should quantitatively estimate the impact on the overall solvency needs assessment of the different recognition and valuation bases.

4.17. The ORSA has to ensure a comprehensive assessment of the undertaking's overall solvency needs in view of its business strategy, its risk profile and the approved risk tolerance limits it sets for itself and its responsibility to meet financial obligation towards policyholders.

4.18. The process of assessing these overall solvency needs enables the undertaking to properly identify and manage the risks it faces or could face in the short and long term and project its capital needs over its business planning period (multi-year). The projections are to be made considering likely changes to the risk profile and business strategy over the projection period and sensitivity to the assumptions used.

4.19. After identifying all the risks it is exposed to, the undertaking takes a decision on whether they will be covered with capital or managed with risk mitigation tools or both.

4.20. If risks are to be covered by capital, there is a need to estimate the risks and identify the level of materiality. For material risks, the undertaking has to determine the capital required and explain how they will be managed.

4.21. If the risk is managed with risk mitigation techniques, the undertaking explains which risks are going to be managed with risk mitigation tools, how will this be done and why it will be done.

4.22. The assessment needs to cover whether the undertaking has sufficient financial resources or realistic plans to raise additional capital if and when required, i.e. on account of the business strategy or business plan. In assessing the sufficiency of its financial resources the undertaking has to take into account the quality and volatility of its own funds with particular regard to their loss-absorbing capacity.

4.23. Conducting an assessment of the overall solvency needs properly involves input from across the whole undertaking. One difference to the SCR calculation is that for the overall solvency needs assessment the undertaking considers all risks, including long term risks it could face within the timeframe determined by its business planning period. Although the SCR only takes quantifiable risks into account, the undertaking is expected to identify and assess the extent to which non-quantifiable risks are part of its risk profile and to ensure that they are properly managed.

4.24. The quantitative estimate of the impact includes all balance sheet effects. For the assessment of the compliance on a continuous basis with the regulatory capital and technical provisions requirements within the ORSA, the recognition and valuation bases have to be in line with the Solvency II principles. The diversification effects between risks (correlations) also have to be considered in this assessment. In this the undertaking is not bound to use the correlations incorporated in the standard formula, but may employ others considered to be more suitable to its specific business and its risk profile.

4.25. Where the undertaking uses the standard formula as a baseline for its assessment of its overall solvency needs, it is expected to demonstrate that this is appropriate to the risks inherent in its business and reflects its risk profile.

4.26. If undertaking-specific parameters are approved to be employed in the SCR calculations, as submitted by the undertaking, these have to be the same as those used in the overall solvency needs assessment.

Guideline 8 - Assessment of the overall solvency needs (Article 45(1)(a) of the Directive)

The undertaking should express overall solvency needs in quantitative terms and complement the quantification by a qualitative description of the risks.

4.27. In its assessment of the overall solvency needs an undertaking could decide not to use capital as a buffer for all its quantifiable risks but to manage and mitigate those risks instead. However, it still has to assess all risks.

4.28. The assessment covers all risks, including non-quantifiable risks like reputational risk or strategic risk, amongst others. The assessment could take several forms. It could be “pure” quantification based on quantitative methodologies or an estimated value, or range of values, based on assumptions or scenarios, or more or less judgemental. It is however required that the undertaking demonstrates the rationale for the assessment.

4.29. When an insurance undertaking belongs to a group its solo ORSA has to include all group risks that may impact materially the solo entity.

4.30. As the risk profile is influenced by the risk mitigation techniques used by the undertaking, consideration also has to be given to the impact and effectiveness of reinsurance and other risk mitigation techniques. Where there is no effective risk transfer this has to be taken into account in the assessment of the overall solvency needs.

Guideline 9 - Assessment of the overall solvency needs (Article 45(1)(a) of the Directive)

The undertaking should subject the identified risks to a sufficiently wide range of stress test/scenario analyses to provide an adequate basis for the assessment of the overall solvency needs.

4.31. The assessment of the overall solvency needs is at least expected to:

a) Reflect the risks arising from all assets and liabilities, including intra-group and off-balance sheet arrangements;

b) Reflect the undertaking's management practices, systems and controls;

c) Assess the quality of processes and inputs, in particular the adequacy of its system of governance, taking into consideration risks that may arise from inadequacies or deficiencies;

d) Connect business planning to solvency needs;

e) Include explicit identification of possible future scenarios;

f) Address potential external stress; and

g) Use a valuation basis that is consistent throughout the overall solvency needs assessment.

4.32. When assessing the overall solvency needs, an undertaking also has to take into account management actions that may be adopted in adverse circumstances. When relying on such prospective management actions, an undertaking assesses the implications of taking these actions, including their financial effect, and takes into consideration any preconditions that might affect the efficacy of management actions as risk mitigators. The assessment also has to address how any management actions would be enacted in times of financial stress.

Guideline 10 – Forward-looking perspective (Article 45 of the Directive)

The undertaking's assessment of the overall solvency needs should be forward-looking and at least separately cover each year of the business planning period.

4.33. The analysis of the undertaking's ability to remain a going concern and the financial resources needed to do so over a possibly longer time horizon than taken into account in the calculation of the SCR is an important part of the ORSA.

4.34. Unless an undertaking is in a winding-up situation, it has to consider how it can ensure that it stays a going concern. In order to do this successfully, it does not only have to assess its current risks but also the risks it will or could face in the long term. That may mean that, depending on the complexity of the undertaking's business, long term projections of the business which are a key part of any undertaking's financial planning, including business plans, and projections of the economic balance sheet and variation analysis to reconcile them may be required. These projections are required to feed into the ORSA in order to enable the undertaking to form an opinion on its overall solvency needs and own funds.

4.35. The length of the business planning period may differ between undertakings. However, any regularly developed business plan or changes to an existing business plan need to be reflected in the ORSA process taking into account the new risk profile, business volume and mix as expected at the end of the projection period at least annually. In order to provide a proper basis for decision-making and identify material risks and the consequences for solvency inherent in the business plan, a range of possible scenarios for the plan have to be tested.

4.36. To this end an undertaking also identifies and takes into account external factors that could have an adverse impact on its overall solvency needs or its own funds. External factors that could have an adverse effect on undertakings can, for example, entail changes in the economic conditions, in the legal or fiscal environment, in the insurance market or on the technical developments that have an impact on the underwriting risk or any other event the crystallisation of which is sufficiently probable that it has to be properly considered. The capital management plans and capital projections require the undertaking to consider how it might respond to unexpected changes in external factors.

4.37. Capital planning includes projections of capital requirements and own funds over the planning period (and may include the need to raise new own funds). It is up to each undertaking to decide on its own reasonable methods, parameters, dependencies or levels of confidence to be used in the projections.

4.38. As part of the business and capital planning processes, an undertaking is required to regularly carry out stress tests, reverse stress-tests, as well as scenario analyses to feed into its ORSA. The stress testing scope and frequency has to be compatible with the principle of proportionality, having regard to the nature, scale and complexity of the undertaking's business.

Guideline 11 – Regulatory capital requirements (Article 45(1)(b) of the Directive)

The undertaking should ensure that the ORSA includes:

a) procedures that enable the undertaking to reliably monitor its compliance on a continuous basis with regulatory capital requirements whilst taking into account potential future changes in the risk profile and considering stressed situations.

b) processes and procedures to allow the undertaking to monitor and manage the quality and loss absorbing capacity of its own funds over the whole of its business planning period.

4.39. Changes in an undertaking's risk profile will affect the MCR and the SCR and therefore need to be reflected in the capital management process. The undertaking's risk management decisions need to take into account its overall solvency needs, its regulatory capital requirements and its financial resources. In considering the own funds the undertaking at least has to take into account:

a) the extent to which eligible own funds are greater than the SCR, and the loss which the undertaking could incur before a breach of the SCR might occur; and/or

b) whether it already holds sufficient funds to meet an increase in SCR because items which are ineligible may become eligible as a result of an increased SCR.

4.40. Continuous compliance does not constitute an obligation to recalculate the full regulatory capital requirements all of the time. To enable it to estimate with sufficient accuracy changes in its capital requirements and eligible own funds' since the last full solvency calculation it may be appropriate for a calculation of some aspects and an estimation of others. The choice between a calculation and an estimate, and frequency of the calculation, will depend on the volatility of the capital requirements and the own funds as well as on the level of solvency. The undertaking is expected to be able to justify both the frequency and whether a full, partial or estimate of the calculation of the regulatory capital requirements is undertaken. A full calculation is in any case required if the risk profile changes significantly according to Article 102(1) subparagraph 4.

4.41. The assessment also needs to also consider the changes that might occur in stressed situations. The undertaking is expected to carry out stress tests and scenario analyses to observe the resilience of the business.

4.42. When considering the quantity and quality of own funds, the undertaking has to consider the following:

a) The mix between basic own funds and ancillary own funds, and also between tiers, their relative quality and loss absorbing capacity
b) net cash flows which result from the inclusion in technical provisions of premiums on existing business that are expected to be received in the future (EPIFP)
c) How it can ensure compliance with the SCR and MCR following a reduction in own funds (whether caused by losses or volatility in valuation) or from an increase in capital requirements,

4.43. When considering future own fund requirements the undertaking has to consider:

a) Capital management including, at least issuance or repayment of capital instruments, dividends and other distributions of income or capital, or calls on ancillary own fund items. This has to include both projected changes and contingency plans in the result of a stressed situation.
b) The interaction between the capital management and its risk profile and its expected and stressed evolution.
c) If required, its ability to raise own funds of an appropriate quality and in an appropriate timescale. This has to have regard to: its own access to capital markets; the state of the markets; its dependence on a particular investor base, investors or other members of its group; and the impact of other undertakings seeking to raise own funds at the same time.
d) How the average duration of own fund items (contractual, maturity or call dates), relates to the average duration of its insurance liabilities and future own funds needs.
e) The methods and main assumptions used to calculate net cash flows resulting from the inclusion in technical provisions of premiums on existing business that are expected to be received in the future (EPIFP); and how it might respond to any changes in basic own funds resulting from changes in those cash flow expectations.

4.44. The undertaking also assesses and identifies relevant compensating measures and offsetting actions it realistically could take to restore or improve capital adequacy or its cash flow position after some future stress events.

4.45. Capital management has to take into account the available timeframe for remedial actions in accordance with Articles 138 and 139 of the Directive.

Guideline 12 – Technical provisions (Article 45(1)(b) of the Directive)

As part of the ORSA process the undertaking should ensure that the actuarial function provides input concerning the compliance with the requirements regarding the calculation of technical provisions and the risks arising from this calculation.

4.46. The undertaking has to ensure that the calculation of technical provisions complies with requirements at all times.

4.47. Assessing whether the requirements relating to technical provisions are being complied with continuously requires processes and procedures relating to a regular review of the calculation of the technical provisions to be in place.

4.48. The input regarding the compliance with requirements and risks arising from the calculation of technical provisions has to be in line with the information contained in the annual report of the actuarial function.

Guideline 13- Deviations from assumptions underlying the SCR calculation (Article 45(1) (c) of the Directive)

The undertaking may initially assess deviations between its risk profile and the assumptions underlying the SCR calculation on a qualitative basis. If this assessment indicates that the undertaking's risk profile deviates materially from the assumptions underlying the SCR calculation the undertaking should quantify the significance of the deviation.

4.49. The assessment of the significance with which the risk profile of the undertaking deviates from the assumptions underlying the SCR calculation is an important tool in ensuring that the undertaking understands the assumptions underlying its SCR calculation and considers whether those assumptions are appropriate. To do this, the undertaking will have to compare those assumptions with its own understanding of its risk profile. This process needs to prevent an undertaking from simply relying upon regulatory capital requirements as being adequate for its business.

4.50. In order to help standard formula users in the assessment, information on the assumptions on which the SCR calculation is based will be made available to undertakings.

4.51. If the standard formula is used, the undertaking has to assess the material deviations of its specific risk profile against the relevant assumptions underlying the (sub) modules of the SCR calculation according to the standard formula, the correlations between the (sub) modules and the building blocks of the (sub) modules.

4.52. The areas in which differences between the undertaking's risk profile and the assumptions underlying the SCR calculation may arise to which the undertaking needs to give due consideration are: from risks that are not considered in the standard formula and from risks that are under/overestimated by the standard formula compared to the risk profile. The assessment process includes:

a) An analysis of the risk profile and an assessment of the reasons why the standard formula is appropriate, including a ranking of risks;

b) An analysis of the sensitivity of the standard formula to changes in the risk profile, including the influence of reinsurance arrangements, diversification effects and the effects of other risk mitigation techniques;

c) An assessment of the sensitivities of the SCR to the main parameters, including undertaking-specific parameters;

d) An elaboration on the appropriateness of the parameters of the standard formula or of undertaking-specific parameters;

e) An explanation why the nature, scale and complexity of the risks justify any simplifications used; and

f) An analysis of how the results of the standard formula are used in the decision making process.

4.53. If the outcome of this qualitative and quantitative assessment is that there are significant deviations between the risk profile of the undertaking and the SCR calculation, the undertaking needs to consider how this could be addressed. It could decide to align its risk profile with the standard formula, to use undertaking-specific parameters, where this is allowed, or to develop a (partial) internal model. Alternatively, the undertaking could decide to de-risk.

4.54. It is unlikely that the undertaking can determine whether the risk profile deviates significantly from the assumptions underlying the SCR by comparing the amount of the overall solvency needs as identified through the ORSA with the SCR. Since overall solvency needs and SCR can be calculated on different bases and may include different items, the amounts produced will not be readily comparable. There are a number of reasons that could account for the differences that have nothing to do with deviations of the risk profile, such as:

a) The undertaking may operate at a different confidence level or risk measure for business purposes compared to the assumptions on which the SCR calculation is based. For instance, it may choose to hold own funds for rating purposes, which represents a higher confidence level than that used to calibrate the SCR.

b) The undertaking may use a time horizon for its business planning purposes that differs from the time horizon underlying the SCR.

c) In the ORSA the undertaking may consider any agreed management actions that could influence the risk profile.

Internal model users

4.55. Where the undertaking uses an internal model for the calculation of the SCR, the internal model needs to play an important role in the ORSA.

4.56. The requirements and expectations associated with the ORSA apply to standard formula users and internal model users alike. However, owing to the specific requirements attached to the approval of internal models for the calculation of the SCR, the requirements on the ORSA have different implications to internal model users.

4.57. An internal model is in itself a tool for the ORSA and the ORSA is a tool for the internal model in the sense that the performance of the ORSA gives input to the on-going exercise of ensuring compliance with the tests and standards. According to the requirements, internal model users have to comply, at the approval date and in an on-going concern, with the use test, statistical quality standards, calibration standards, profit and loss attribution test, validation standards and documentation standards. Each feature of the ORSA could play an important role in this exercise.

4.58. This means that an undertaking needs to demonstrate, annually that the standards required for the approval of the internal model are still met. This is either:

a) Done in the ORSA process and used for on-going compliance with tests and standards of internal models; or

b) Done separately for on-going compliance with tests and standards of internal models and then used in the ORSA.

4.59. From an ORSA perspective the important point is that this assessment is done and there is no requirement for repetition of the same tasks.

Internal model users - Overall Solvency Needs

4.60. To pass the use test, approved internal models must play an important role in the ORSA. This does not necessarily mean that the assessment of the overall solvency needs is solely accomplished by running the internal model. The undertaking also has to consider whether the undertaking is exposed to any risks other than those addressed through the internal model and whether the internal model deals with the risks it covers appropriately.

4.61. In this context, the ORSA includes the assessment of:

a) the impact of the excluded risks or lines of business on the solvency position;

c) the interrelationship between risks which are in and outside the scope of the model;

d) the impact of a partial model on the non-modelled part and on the integration techniques (of partial internal model and standard formula), since the partial internal model has an impact on the entire solvency position;

e) the impact of minor changes done to the model.

Internal model users - Deviation from assumptions underlying the SCR calculation

4.62. Although an internal model will reflect the undertaking's risk profile at the time of approval, this may diverge over time as the risk profile of the undertaking evolves. Despite the requirement on the AMSB to ensure the ongoing appropriateness of the internal model (Article 120), it may not have been updated or changed in a timely manner.

4.63. The undertaking has to assess the assumptions underlying its calculation of the SCR according to its internal model in order to ensure they remain adequate and that the internal model continues to appropriately reflect its risk profile.

4.64. If a full or a partial internal model is used, this particular process could include:

a) An analysis of the risk profile and an assessment of the reasons why the internal model is appropriate, including a ranking of the risks within the scope of the internal model;

b) An analysis of the sensitivity of the results of the internal model to changes in the risk profile, including the influence of reinsurance arrangements, diversification effects and the effects of other risk mitigation techniques;

c) An assessment of the sensitivities of the SCR regarding the calibration of the internal model and an elaboration on the appropriateness of the calibration;

d) An analysis of how compliance with the use test is achieved.

4.65. The undertaking demonstrates within the ORSA that the standards required for the approval of the internal model are still met. It is also required to identify instances for which a risk of non-compliance would arise.

4.66. Within the ORSA, model error needs to be addressed. For example, the performance of sensitivity analyses provides understanding of which parameters of the internal model are critical and the impact that an error could have on the capital requirement calculations.

4.67. Where an undertaking has identified limitations of its internal model in particular circumstances (as required by Article 125), it explains in the ORSA why it considers these circumstances are unlikely to happen within a short timeframe or that it has taken appropriate measures to adapt its model to these particular circumstances. The model errors associated with these limitations have to be addressed, especially when there is a significant probability that they will crystallize.

4.68. Stress testing and scenario analyses are necessary in order to validate and understand the limitations of the undertaking's models, if any, and to assess the risks that are not included quantitatively in the internal model. Those will often be useful in order to confirm that quantifiable risks affecting the own funds that were not significant when the model was approved remain not significant.

Guideline 14- Link to the strategic management process and decision-making framework (Article 45(4) of the Directive)

The undertaking should take the results of the ORSA and the insights gained in the process into account at least for the system of governance including long term capital management, business planning and product development and design.

4.69. In deciding on the business strategy the undertaking has to take into account the output from the ORSA.

4.70. As an integral part of the business strategy, an undertaking needs to have in place its own strategies for managing its overall solvency needs and regulatory capital requirements and integrating this with the management of all material risks to which it is exposed. Hence the ORSA feeds into the management of the business, in particular into the strategic decisions, operational and management processes.

4.71. The ORSA is required to reflect the business strategy. When performing the ORSA, the undertaking hence takes into account the business strategy and any strategic decisions influencing the risk situation and regulatory capital requirement, as well as overall solvency needs. In reverse, the AMSB needs to be aware of the implications strategic decisions have on the risk profile and regulatory capital requirements and overall solvency needs of the undertaking and to consider whether these effects are desirable, affordable and feasible given the quantity and quality of its own funds. Any strategic or other major decisions that may materially affect the risk and/or own funds' position of the undertaking need to be considered through the ORSA process before such a decision is taken. This does not require a full performance of the ORSA: the undertaking considers how the output of the last assessment of the overall solvency needs would change if certain decisions were taken and how these decisions would affect the regulatory capital requirements.

4.72. Where the undertaking is relying on management processes, in particular systems and controls in order to mitigate risks, it considers the effectiveness of those systems and controls in a stress situation.

Guideline 15- Frequency of the ORSA (Article 45 of the Directive)

The undertaking should perform the ORSA at least annually. Notwithstanding this, the undertaking has to establish the frequency of the assessment itself particularly taking into account its risk profile and the volatility of its overall solvency needs relative to its capital position. The undertaking should justify the adequacy of the frequency of the assessment.

4.73. The ORSA has to be performed on a regular basis and in any case directly following any significant change in the risk profile of the undertaking.

4.74. The undertaking decides when to perform the regular ORSA as long as it triggers a SCR calculation.

4.75. The ORSA performed after any significant change of the risk profile is called a non-regular ORSA. In this regard undertakings are expected to use their experience from stress tests and scenario analyses to determine whether changes in external factors could impact the undertaking's risk profile significantly.

4.76. Such changes may follow from internal decisions and external factors. Examples are: the start-up of new lines of business; major amendments to approved risk tolerance limits or reinsurance arrangements, portfolio transfers or major changes to the mix of assets.

Section IV: Group specificities of the ORSA

Guideline 16 – Scope of the group ORSA (Articles 212 and 246(4) of the Directive)

The group should design the group ORSA to reflect the nature of the group structure and its risk profile. All of the entities that fall within the scope of the group supervision should be included within the scope of the group ORSA. This includes both (re)insurance and non-(re)insurance undertakings, both regulated and non-regulated (unregulated) entities, situated in the EEA and outside the EEA.

4.77. The group ORSA adequately captures all specificities of the group, including at least

a) risks specific to the group (e.g. stemming from non-regulated entities, interdependencies within the group and their impact on the group's risk profile);

b) risks that might not be taken into account at solo level, but have to be taken into consideration at group level (e.g. contagion risks);

c) differences between undertakings of the group, such as business strategy, business planning period and risk profile.

4.78. The participating insurance or reinsurance undertaking or insurance holding company responsible for the group ORSA needs to ensure that all the necessary information for carrying out the group ORSA and the ORSA results are reliable.

Third country entities

4.79. Although third-country undertakings are not required to produce a solo ORSA, they have to be included in the group ORSA. In fact, it is for this reason that third country undertakings are of particular importance to the group ORSA, especially where the third country undertakings are managed separately from the wider group.

4.80. Groups need to take account of any restrictions or challenges to the assessment at group level that may arise from third country undertakings. For example, this might include any impediments to accessing information and restrictions on the timeliness of information to be provided by the undertakings.

Regulated non-(re)insurance undertakings

4.81. The group ORSA assesses all risks arising from regulated non-(re)insurance entities within the group, since these entities contribute to the group solvency proportionate to the share held by the participating undertaking in accordance with Article 221.

4.82. The group ORSA is designed to reflect the nature of the group structure and its risk profile. For example, the group ORSA results are likely to be different for a group with predominantly banking/credit business and a relatively small insurance subgroup and a large insurance group that writes only insurance business in view of the different dimension of the risk profiles arising from the different nature, business strategies and risk drivers faced by the two different groups.

Unregulated entities

4.83. Whilst unregulated entities are not subject to solo supervision and are not expected to perform ORSA at the solo level, they have to be included in the scope of group ORSA.

4.84. The nature of the assessment with respect to unregulated entities will depend on the nature of each unregulated entity and its role within the group. The core of this principle is to take account of the fact that different unregulated entities could have different roles within a group and the overall group risk profile has to reflect the nature of the role of a particular unregulated entity. Some unregulated entities (e.g. ultimate parent undertakings) may play a very important role in setting the strategy and hence risk profile at the group level which is implemented throughout the group. On the other hand, insurance holding companies may exist solely to acquire holdings in subsidiaries as set out in Article 212(1)(f). The group ORSA will have to be dynamic enough to capture the different nature of material risks from all unregulated entities within the scope of the group.

Guideline 17- Reporting to the supervisor (Articles 153 and 246(4) of the Directive)

The report sent to the group supervisor with the outcome of the group ORSA is the ORSA supervisory report at the level of the group and should be in the same language as the group Regular Supervisory Reporting.

In case of a group-wide ORSA, where any of the subsidiaries has its head office in a Member State whose official languages are different from the languages in which the group-wide ORSA is reported, the supervisory authority concerned may, after consulting the group supervisor and the college of supervisors, require the undertaking to include a translation of the part of the ORSA information concerning the subsidiary into an official language of that Member State unless exemption has been granted by the supervisory authority concerned.

The following table summarises the reporting requirements linked to group ORSA:		**Articles 35(2) (a)(i) and 254(2)**	**Articles 35(2) (a)(ii) and 254(2)**
Group ORSA (not including the assessment at solo level of the subsidiaries)	**Parent**	ORSA supervisory report at the group level submitted to the group supervisor	ORSA supervisory report at the group level submitted to the group supervisor whenever a non-regular ORSA is performed
Group wide ORSA (option in Article 246(4) third subparagraph)	**Parent**	Single ORSA supervisory report submitted to all supervisors concerned	Single ORSA supervisory report submitted to all supervisors whenever a non-regular is ORSA performed
	Subsidiary (included in group wide ORSA)	The solo ORSA supervisory report includes cross references to the group ORSA report submitted to the group supervisor and solo supervisor concerned.	The solo ORSA supervisory report includes cross references to the group ORSA report submitted to the group supervisor and solo supervisor concerned whenever a non-regular is ORSA performed
	Subsidiary (not included in group	The separate solo ORSA supervisory report submitted to the group supervisor	The separate solo ORSA supervisory report submitted to the group supervisor and

	wide ORSA)	and solo supervisor concerned.	solo supervisor concerned whenever a non-regular is ORSA performed

4.85. Specifically, the following two situations could arise:

a) The participating undertaking does not apply for the group wide ORSA. In this case, the parent undertaking performs the ORSA at the level of the group and the solo undertaking performs its individual ORSA.

b) The parent undertaking opts for a group wide ORSA. In this case a single ORSA supervisory report has to be provided. Nevertheless compliance with Article 45 needs to be ensured by the subsidiaries concerned. It is required in the Directive that the document has to be submitted to all supervisory authorities concerned. This applies to the regular ORSA report and also for reports following predefined events.

Guideline 18- Assessment of the overall solvency needs (Article 45 of the Directive)

The group ORSA should adequately identify, measure, monitor, manage and report all group specific risks and the interdependencies within the group and their impact on the group risk profile. This should take into consideration the specificities of the group and the fact that some risks may be scaled up at the level of the group.

4.86. The group ORSA identifies the impact on the group solvency and related undertakings arising from all risks that the group is facing. In addition to risks considered in the SCR calculation, all risks including group specific risks particularly risks that are not easily quantifiable, have to be taken into consideration.

4.87. The group ORSA describes the interrelationships between the risks of the parent undertaking and of the solo undertakings.

4.88. The group ORSA also assesses the materiality of risks that arise at the level of the group and are specific for groups and thus cannot be identified at the solo level. Hence those group specific risks, are not taken into account in the consolidation or aggregation process depending on the choice of calculation method used.

4.89. The group specific risks include at least:

a) contagion risk (spill-over effect of risks that have manifested in other parts of the group;

b) risks arising from intra-group transactions and risk concentration, notably in relation to:

(i) participations;

(ii) intra-group reinsurance or internal reinsurance;

(iii) intra-group loans;

(iv) intra-group outsourcing;

c) interdependencies within the group and their impact in the group risk profile;

d) currency risk;

e) risks arising from the complexity of the group structure.

Guideline 19- Assessment of the overall solvency needs (Article 45(1)(c))

The group should explain the key drivers of the overall solvency needs of of the group including any diversification effects assumed.

4.90. In addition to the information required in 3.14 at the group level, the group ORSA document includes:

a) a description of the materiality of each related entity at the group level, particularly the contribution of each related entity to the overall group risk profile.

b) where the accounting consolidation method is used, outcome of the comparison between the group SCR and the sum of the solo SCRs and assessment of any diversification effects assumed at the group level.

4.91. A group specific component of the group ORSA, compared to the solo ORSA, is the analysis of diversification effects assumed at group level. In particular where the accounting consolidation method is used, this includes analysis of the reasonableness of the diversification effects assumed at the group level (i.e. the difference between the group SCR and the sum of solo SCRs) compared to the risk profile of the group and the overall solvency needs of the group.

4.92. The analysis of the diversification effects at group level generally includes:

a) determine the difference between group SCR and sum of the solo SCRs.

b) objective and economic allocation of the difference in (a) above to each entity of the group, taking into account any ring fencing arrangements that may exist at the group level.

c) appropriate sensitivity analysis, stress and scenario tests (e.g. how an envisaged material change in the group structure such as selling some related entities may impact on the diversification effects at group level and the overall group solvency).

d) consistency of diversification effects assumed between different related entities of a group and for each related entity, the consistency of diversification effects assumed between different risk drivers.

Guideline 20- Forward looking perspective (Article 45 of the Directive)

In the context of the group ORSA the group should set the business planning period underlying the group ORSA and explain how the different business planning periods used by group undertakings on the solo level influence the group's forward-looking perspective.

4.93. The challenges associated with the performance of the group ORSA in respect of a forward-looking perspective include, amongst other internal and external factors:

a) identification of the sources of own funds within the group if additional new own funds are necessary;

b) the assessment of availability/transferability/fungibility of own funds;

c) references to any planned transfer of own funds within the group and its consequences;

d) alignment of individual strategies with those that are established at the level of the group; and

e) specific risks the group could be exposed to.

4.94. From a quantitative perspective, it is expected that the group ORSA policy outlines different stress tests and scenario analyses. At the level of the group, such tests include additionally the risks that are specific to groups or materialise only at group level..

Guideline 21- Internal model users (Article 45(3) of the Directive)

Where the group internal model is used in the solvency assessments at both the group and solo undertaking levels, the group should identify entities (if any) which do not use the group internal model and the underlying reasons in the group ORSA report.

4.95. In addition to the requirements under Guideline 13 in respect of internal model users, the group ORSA report also includes a description of the scope of the group internal model in particular the entities that are included in/excluded from the scope of the group internal model and the suitability or otherwise of the group internal model/standard formula for these entities.

Guideline 22- Criteria and principles for a single ORSA document (group wide ORSA) covering the parent undertaking and its subsidiaries (Articles 246(4), 248 to 252 of the Directive)

When submitting a single ORSA document, subject to the agreement of the group supervisor, the group should provide an explanation on how the subsidiaries are covered and how the subsidiaries' administrative, management or supervisory body is involved in the assessment process and approval of the outcome.

4.96. Where groups apply to submit a single ORSA document, this document needs to reflect the nature, scale and complexity of the group and the risks within it. The single ORSA document focuses on the material parts of the group, but according to Article 246(4) it does not exempt subsidiaries from the obligations relating to the ORSA at solo level. This means that the single ORSA document also has to document the assessments undertaken by insurance and reinsurance subsidiary undertakings at the solo level under Article 45.

4.97. If a group plans to submit a single group ORSA report, the administrative, management or supervisory body of the group needs to take into consideration the following criteria when assessing the appropriateness of submitting a single group ORSA document:

a) where relevant, the appropriateness of the scope of the internal model (e.g. if a group internal model is used to calculate both group and subsidiaries' SCR));

b) consistency of the business planning periods, risk measures, levels of confidence, processes and reporting dates for similar business lines at the group and solo levels;

c) the results of each subsidiary concerned are individually identifiable in the foreseen structure of the single ORSA document to enable a proper supervisory review process to be carried out at the solo level by the solo supervisors concerned;

d) the single ORSA report satisfies the requirements of both the group supervisor as well as the solo supervisors concerned.

Guideline 23- Link to strategic decisions (Article 246(4) of the Directive)

Where groups report their group ORSA in other additional formats such as according to material business units in their single group wide ORSA report, they should ensure that there is adequate and clearly identifiable documentation for each solo undertaking.

4.98. EIOPA underlines the requirement in the Directive that legal entities must be separately identifiable in the group ORSA for supervisory purposes. However, the group ORSA has to reflect the way insurance groups are managed, in order to ensure a proper link to management processes. As such, the group may report their group ORSA along material business units for example in line with their group ORSA so long as the documentation in respect of each solo undertakings is clearly identifiable and adequate for the purposes of the solo supervisors concerned.

Guideline 24- Integration of related third-country insurance and re-insurance undertakings (Article 227(1) of the Directive)

In the group ORSA the group should assess the risks of the business in third countries in the same manner as for EEA-business with special attention to transferability and fungibility of capital and – in case of equivalence, when the deduction and aggregation method applies – the consequences of applying local capital requirements and technical provision calculations instead of the Solvency II framework in third countries.

4.99. The business of these third countries undertakings is assessed taking into account the following considerations:

a) Both where the solvency regime of a third country has been deemed to be equivalent to that laid down in the Directive and where that is not the case, the group should carry out the assessment of the overall solvency needs set out in Article 45(1)(a) in the same manner as for EEA undertakings. Integration of risks of third countries undertakings with the risks of EEA undertakings in the group, should guarantee that similar risks are homogeneously assessed from an economic point of view;

b) Both where the solvency regime of a third country has been deemed to be equivalent to that laid down in the Directive and where that is not the case, the group needs particularly to assess the transferability and fungibility of the third country undertaking own funds, The assessment explicitly identifies the regulation of the third country that may hinder or impede the full fungibility and transferability of the own funds of the subsidiaries of such third country towards to any other undertaking of the group. The assessment must explicitly identify the regulation of the third country that may hinder or impede the full fungibility and transferability of the own funds of the subsidiaries of such third country towards to any other undertaking of the group;

c) If third country entity is included in the group solvency assessment using local rules and the deduction and aggregation method (in case of equivalence), the assessment of the significance with which the risk profile of the subsidiary of such country deviates from the assumptions underlying the solvency capital requirement, as set out in Article 45(1)(c), shall refer to the capital requirements as laid down in the regulations of such a third country. This assessment has to carry out both at a holistic level and at a more granular level, where the group assesses the specific deviations of each material element of the calculation of the capital requirement. .

4.100. The group ORSA includes a separate and adequate disclosure of any material information regarding the ORSA concerning third countries undertakings.

Annex I: Impact Assessment

1: Procedural issues and consultation of interested parties

5.1. Having regard to art. 16 of the EIOPA regulation[4], before issuing guidelines, EIOPA shall, where appropriate, conduct open public consultations on these draft guidelines and analyse the related potential costs and benefits.

5.2. This consultation paper on guidelines on ORSA is a working document of EIOPA, for the purpose of receiving stakeholders' views on the guidelines proposed and their expected impact with regard to Stakeholders.

5.3. The discussions on the framework for Solvency II were finished two years ago and the resulting decisions were adopted in the Solvency II Directive[5]. The development of the Solvency II Directive was subject to extensive consultation and a thorough impact assessment concluding that the EU should adopt an economic risk-based approach to the supervision of insurance and reinsurance undertakings and insurance and reinsurance groups.

5.4. Solvency II follows the "Lamfalussy" approach which entails that the requirements of the EU prudential framework can be found at three hierarchical levels. The Solvency II Directive (level 1) identifies a number of areas where the European Commission develops implementing measures (level 2) to provide further technical detail to elaborate the level 1 principles. Currently the European Commission is still developing these level 2 implementing measures and. This work will also be supplemented with a thorough impact assessment.

Chronology of Impact Assessment

5.5. After analyzing all comments received during pre-consultation, EIOPA conducted an impact assessment based on issues highlighted by stakeholders.

Process

[4] REGULATION (EU) No 1094/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC

[5] 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), published in the Official Journal on 17 December 2009

5.6. This Impact Assessment is based on the Issues paper from 2008, and comments received from public consultation (for the comments received from stakeholders responding to this consultation visit EIOPA website: https://eiopa.europa.eu/consultations/issues-papers-surveys-and-questionnaires/index.html). A feedback statement was issued to inform stakeholders of the understanding from EIOPA on the ORSA as well as how EIOPA interpreted the requirements in the draft Directive proposal from 2008 (https://eiopa.europa.eu/fileadmin/tx_dam/files/consultations/Issues-Paper-ORSA-%20Feedback.pdf).

5.7. The focal point of the issues paper from 2008 was solo ORSA but after the public consultation it became evident that group issues for the ORSA were a major concern for stakeholders. Later on it also became clear that guidance on the interaction between ORSA and partial/full internal models was an important issue that needed to be addressed.

5.8. Based on this EIOPA developed the current draft guidelines on ORSA combining solo and group ORSA and of their respective specificities as well as issues regarding the ORSA of insurance undertakings using internal models for the calculation of their SCR.

5.9. These draft guidelines were pre-consulted in winter of 2010/2011 with AMICE, CEA, Group Consultative, CRO Forum, CFO Forum and FEE.

5.10. The main results of the pre-consultation were that the consulted stakeholders agreed that the focus of the guidance should be on what needs to be achieved by the ORSA rather than on how it is to be performed. Stakeholders also agreed that the ORSA process is an important process within insurance undertakings as a self-assessment tool for the undertaking and should be left with sufficient room for the individual approach within the undertaking. Undertakings should perform the assessment in accordance with the nature, scale and complexity of their business. It is important that the overall process is internally planned performed and documented before reporting to the supervisor in order to give the supervisor the most current picture of the undertakings risk profile and solvency requirements. The emphasis should primarily be on the adequacy of the process for providing the administrative, management or supervisory body (AMSB) with insight in the risks of the undertaking as well as improving risk management and better understand the undertakings overall solvency needs.

5.11. It is acknowledged that undertakings should perform the assessment in accordance with the nature, scale and complexity of the risks inherent to their business. Although consulted stakeholders agreed that the proportionality principle is not on different requirements but on different ways to fulfil the requirements they would also prefer more details on the application of the principle. However, as the proportionality principle should be reflected in the process and not on what is to be achieved it made it difficult to address the application of the principle in the previous draft of the guidelines. Efforts have been made in this regard and EIOPA believes that the current draft reflects an improvement on the previous draft.

2: Problem definition

5.12. Supervisory requirements with regard to risk management vary widely across Member States. These differing requirements impose unnecessary costs on the undertakings and does not provide level playing field. Therefore new requirements should harmonise and streamline supervisory requirements with regard to ORSA.

5.13. Based on Solvency I it became evident that a formal and harmonised framework for a risk management system, focusing on the identification, assessment, managing, monitoring and reporting of risks was needed and that the AMSB had to be more involved in the process. Accordingly, the requirement for the undertaking to perform its formal own risk and solvency assessment should improve risk and capital management and help align regulatory and industry practice. However; due to a great level of uncertainty regarding supervisory expectations on the ORSA there was a general consensus that harmonised guidelines were needed.

5.14. Regulatory measures tackled this problem in the Solvency II Directive. However further details on ORSA requirements, are needed to ensure harmonisation and streamline supervisory reporting requirements among Member States.

5.15. The impact assessment of the potential related costs and benefits from the draft guidelines developed by EIOPA, uses as a starting point previous impact assessment undertaken by the European Commission on the Directive proposal.

5.16. EIOPA decided to analyse and assess the potential related costs and benefits of the proposed ORSA guidelines against the baseline which takes into account requirements of the Solvency II Directive and the current business practices of undertakings.

3: Objective pursued

5.17. The Solvency II project has three sets of objectives; general, specific and operational objectives.

5.18. The four general objectives of the Solvency II project are: to deepen the integration of the EU insurance market, enhance the protection of policyholders and beneficiaries, improve the competitiveness of EU insurers and reinsurers and promote better regulation.

5.19. Going further to operational objectives, new requirements should ensure that all quantitative and qualitative regulatory requirements imposed on insurers are proportionate to the nature, scale and complexity of the insurer and its operations. Small insurance undertakings play an important role in the economic environment and should not be subjected to unnecessary regulation. Therefore presented requirements introduce proportionate requirements for small undertakings.

5.20. The current EU regime does not focus adequately on risk management and it does not provide incentives for EU insurers to measure and properly manage their risks. Therefore the second objective is to improve the risk management of EU insurers and reinsurers.

5.21. When assessing the merits of the various policy options and approaches the aim is to deliver a system that addresses the weaknesses of the current regime, in particular with respect to removing obstacles to the proper functioning of the single market, whilst achieving an appropriate balance between the objectives of enhancing the protection of policyholders and beneficiaries and improving the international competitiveness of EU insurers and reinsurers.

4: Policy options

5.22. EIOPA has identified four options that were considered in the policy development process and that are based on what EIOPA believes could have the most significant impact on undertakings and how the problem would evolve, all things being equal if such options were not decided upon. The policy options described below are not competing with one another, but are proposed as a solution to different aspects of the lack of harmonisation in this area.

5.23. It is also worth highlighting that against the baseline of the Level 1 ORSA requirements, the proposed guidelines should not create material new requirements for firms in general. For instance, for their own business purposes undertakings may create ORSA policy documents, hence not all costs of the ORSA policy are incremental to the baseline.

5.24. Section 5 in this document outlines the pros and cons for each option and the respective analysis. Section 6 concludes which options have been preferred and which have been discarded and why.

Option 1: Whether to develop guidelines on ORSA.

5.25. Based on the Directive it was discussed whether guidelines on solo and group ORSA were needed to ensure a common understanding of this very important process in Solvency II considered as one of the cornerstones in the risk based framework.

Option 2: Whether to detail an ORSA Policy.

5.26. A written policy was required by the directive for the risk management system and since ORSA is a part of the risk management system, an ORSA policy should be included. It was discussed whether EIOPA should define the minimum requirements of this policy for ORSA.

Option 3: Whether to provide guidelines and examples on the ORSA supervisory report.

5.27. There will be some requirements in draft level 2 implementing measures regarding the level of detail for the ORSA supervisory report, but it was discussed whether more detail or an actual example of a structure and content should be provided to ensure a common baseline and a minimum level of detail.

Option 4: Whether to require a quantitative assessment for all deviations from the standard formula regardless of their significance.

5.28. An assessment of the deviation from the standard formula is required, in order to determine whether the deviation is significant The question was whether the quantitative assessment of the deviation should be a requirement on guideline level to all deviations or only for significant deviations. This would mean that an initial qualitative assessment would be acceptable as an indication for the significance of the deviation.

5: Analysis of impacts

5.29. In the Solvency II project policy-makers already has considered, analysed and compared a number of policy options. Based on the impact assessment already done for the requirements set in the Directive and in draft level 2 implementing measures, EIOPA has considered a wide range of policy options referring to the concrete solutions set technical standards and level 3 guidelines. In this section EIOPA would like to show alternative options which were considered and preferred options that have been analysed seriously, and to explain why they were not pursued.

5.30. During the analysis principle of proportionality was always taken into account as Community action should not go beyond what is necessary to achieve satisfactorily the objectives which have been set. Due to their size and scarce resources, SMEs can be affected by the costs of regulations more than their bigger competitors. At the same time, the benefits of regulations tend to be more evenly distributed over companies of different sizes. SMEs may have limited scope for benefiting from economies of scale. SMEs in general find it more difficult to access capital and as a result the cost of capital for them is often higher than for larger businesses. Therefore principle of proportionality was always taken into account while considering different options.

5.31. The analysis was also closely linked to the principle of subsidiarity which state that Community action should be as simple as possible and leave as much scope for national decision as possible, and should respect well established national arrangements and legal systems.

Option 1: Whether to develop guidelines on ORSA.

5.32. EIOPA initially discussed the need to develop guidelines on ORSA, taking into account that there are no implementing measures regarding ORSA. EIOPA could have chosen not to write guidelines and leave it up to undertakings how they would meet the requirements set out in art. 45 of the Directive and give them more flexibility. Subsequently, EIOPA assessed the need for guidelines and whether more harmonization was desirable.

5.33. EIOPA's concern was that by not issuing guidelines there would be less harmonisation and a great variation between supervisors on what to expect for, the application on the ORSA requirement. Another downside would be that some supervisors could chose not to give any national guidelines to their undertakings and consequently the undertakings would only be left with art. 45 of the Directive on which to base their ORSA. Furthermore the lack of harmonisation and understanding of what the ORSA requires could have led to differences in interpretation and potentially have a significant impact on how much "work" could be required by undertakings which significantly could affect the level playing field. In addition to that ORSA is one of the cornerstones in the risk based approach which makes the level playing field even more important.

5.34. The more the risks of having different interpretations of what is required of the ORSA the higher is the potential effect on the level playing field . Hence, EIOPA found it necessary to develop further guidelines on the process and especially on the level of involvement from the AMSB. The guidelines are written to ensure a common understanding of the new risk approach and to give some principles from the application of Solvency II regarding the supervisors general expectations for the ORSA. Additionally, further guidance was requested by stakeholders.

Option 2: Whether to detail an ORSA Policy

5.35. As EIOPA believes that ORSA is one of the most important processes of SII and as it requires the input from various sources, it is important that an undertaking ensures that all relevant information is taken into account.

5.36. ORSA is part of the risk management system and it is required in art. 41(3) of the Directive that a written policy should be approved by the AMSB and properly implemented by the undertakings to achieve an effective system of governance.

5.37. EIOPA is aware that to develop a proper policy that contains the right information to ensure a proper performance of the ORSA could be time consuming but an ORSA policy is required to give insight to and oversight of the AMSBs decision making process and risk understanding as well as ensuring the undertaking has a comprehensive picture of all the risks it is exposed to. It also ensures the necessary level of responsibility by the AMSB/undertaking and a policy will help them in deciding the level of documentation needed, the allocation of responsibilities and workflows and identifying the undertakings core business as well as what they believe is required by an ORSA process.

5.38. Hence EIOPA believes it is necessary to set out the ORSA policy in such detail as to ensure proper governance and subsequently good results. The ORSA is a requirement of art. 41(3) and 45 in the Directive, and this particular process requires a higher standard for the internal documentation as well as input for the supervisory report. Hence, by requiring an ORSA policy, EIOPA emphasizes that a appropriate level of detail is expected depending on the nature, scale and complexity of the undertaking.

Option 3: Whether to provide guidelines and examples on the ORSA supervisory report

5.39. How an undertaking wants to document the process, procedures and results is very undertaking specific and EIOPA's concerns are that a structured report could influence the reporting of the ORSA. Moreover detailed guidelines could affect the way the undertaking develops these processes and hence its overall ORSA performance and subsequently the internal documentation and the reporting to the national supervisory authority (NSA). Accordingly, providing a template for a structured report could compromise the undertakings own assessment. On the other hand, by not providing a structure there might be lack of harmonisation even though draft Level 2 implementing measures will give some minimum requirements for the separate ORSA supervisory report. This non-harmonised structure makes comparison between undertakings as well as information sharing between supervisors and in colleges more difficult.

5.40. For EIOPA not providing an example on a structured report gives the undertaking the opportunity of making their own reporting template that fits the undertakings nature, scale and complexity and ensures the involvement of the AMSB to develop a template they believe provides the sufficient information internally and to supervisors. Additionally, a non-structured report allows the undertaking to use its internal reporting as a basis for the ORSA supervisory report, if deemed adequate by the AMSB.

5.41. A main focus is to ensure that supervisors get current information on all ORSAs performed by all undertakings.

5.42. Based on this EIOPA believes that it would not be helpful to give an example on a structured report, but rather give the undertaking the opportunity to develop its own reporting template for the ORSA supervisory report to ensure the involvement of the AMSB and that it contains want they want reported.

Option 4: Whether to require a quantitative assessment for all deviations from the standard formula regardless of its significance

5.43. EIOPA believes that the most appropriate approach to the assessment of the deviations is to perform a qualitative assessment as a first step, so that undertakings do not have to do a potential burdensome quantitative assessment for all deviations. EIOPA will expect quantification as a second step, only if the qualitative assessment indicates a significant deviation from the assumptions underlying the SCR calculation.

5.44. On the other hand, the qualitative assessment of the deviation could be sufficient as a starting point, as quantification is not easy and cannot be taken as definite anyway but there is an increased possibility of error, since the qualitative assessment may indicate that the deviation is not significant when in fact it is. EIOPA is aware of that quantification can be rather burdensome, especially if the undertaking 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.

5.45. EIOPA accepts the error margin and only require quantitative assessment when qualitative assessment indicates that deviation is significant and will have a material impact.

6: Comparing the options

5.46. EIOPA believes that the proposed policy options help achieve the objectives pursued in enhancing the protection of policyholders and beneficiaries and improving the international competitiveness of EU insurers and reinsurers, in an efficient and effective way. A specific characteristic of the policy options proposed, and which contributes to an effective and efficient result is that they allow for supervisory practices to be applied in a proportionate manner with respect to risks.

5.47. EIOPA appreciates that issuing these guidelines may have an economic impact for undertakings. However the benefits of having a common understanding of the ORSA requirements from the application of Solvency II between undertakings and supervisors are a vital step to ensure a level playing field and the much needed transparency. Hence, the option of not providing guidelines was discarded on the basis of a common understanding on how an undertaking should assess its own risks on a continuous basis and how to use this information to ensure good governance within the undertaking.

5.48. The same applies for the option on whether to detail a policy. Art. 41 (3) already requires a written policy for the risk management system and since ORSA is an integrated part of that, it makes most sense to require a policy on how to perform, manage, monitor and document the ORSA as well as ensuring the AMSB's involvement in and understanding of the process.

5.49. The option of whether to provide a structure for the ORSA supervisory report was, that a certain level of harmonisation will be provided by draft level 2 implementing measures, and EIOPA found it better to give the undertakings the flexibility of deciding what they find to be the relevant information that should be documented and disclosed to supervisors. ORSA can be a very complex process that involves most of the undertaking and it requires the AMSB to be involved in all policies, processes and procedures– especially their risk exposure and how to assess it. Furthermore ORSA is an undertaking-specific tool, which has to take into account the nature, scale and complexity and level of documentation undertakings prefer. Consequently, the option of providing a structure for the report was discarded, since it would be difficult to make a one-size-fits-all structure for the supervisory report.

5.50. Finally EIOPA had the option of whether to require a quantitative assessment for all deviations or only when the qualitative assessment showed that there was a significant deviation from the assumptions underlying the SCR calculation.

5.51. EIOPA have accepted the error margin and will only require quantitative assessment when qualitative assessment indicates that deviation is significant and could have a material impact on the risk and capital management

5.52. EIOPA believes that the application of the proposed guidelines ensures a harmonised and comparable basis for undertakings' risk and capital management as well as for the risk-based supervisory assessment. Moreover EIOPA is convinced that the application of these guidelines will ensure common understanding and a level playing field

Annex II: Overview of Questions for Consultation

5.53. The purpose of this public consultation is not to revisit the conclusions drawn in the impact assessment undertaken on the Solvency II Directive. Instead, this public consultation aims at having valuable insights, supported by quantitative and qualitative evidence, on the impacts, costs and benefits to support the decision-making process for this consultation paper on guidelines on ORSA. The consultation paper also seeks stakeholders' views on the potential impact ORSA could have on the pricing, design and availability of insurance products, the corresponding effects for consumers and the wider social or economic impacts even if indirectly. For this reason, EIOPA welcomes views of consumers, investors and undertakings especially on the questions below.

Q1. Are the guidelines clear and will they help the undertaking understand what they are expected to achieve?

Q2. Are there any aspects which could be made clearer?

Q3. Are there any other areas in the scope of Articles 45 and 246 of the Directive where guidelines would be useful?

Q4. Are there any practical or operational issues with the application process which can be identified by undertakings? If any, please describe your concerns and how they could be addressed.

Q5. What benefits may flow from the proposed guidelines?

Q6. Do undertakings agree with the analysis of the costs for the implementation of the guidelines? Are there other costs and negative impacts EIOPA should consider?

Q7. Do undertakings agree with the proposed options in the analysis of the impact? Are there other options EIOPA should consider?

Q8. Do you agree that the EIOPA's suggested approach to the guidelines on the ORSA would be the most efficient and effective in order to achieve the objectives of (If you do not agree, which options or alternative suggestion meets these objectives in a more efficient and effective way and why?):

a) introducing proportionate requirements for small undertakings;
b) improving the risk management of EU insurers and reinsurers.

Q9. Do you have suggestions to whom and how the reporting of the undertakings and/or group on their compliance with the guidelines could be done efficiently?