

**EIOPA Final Report  
on Public Consultation No. 11/008  
On the Proposal for  
Guidelines  
On  
Own Risk and Solvency Assessment  
To  
EIOPA Insurance and Reinsurance  
Stakeholders' Group (IRSG)**

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## 1. Scope

- 1.1. This Final Report contains the outcome of the Public Consultation No. 11/008, which was launched by EIOPA on 7 November 2011 on the proposal for Guidelines on Own Risk and Solvency Assessment (ORSA).
- 1.2. It includes a feedback statement with EIOPA's opinion on the comments received during the Public Consultation from EIOPA Insurance and Reinsurance Stakeholders' Group (IRSG).
- 1.3. In the Annexes, IRSG members can find the detailed resolution template with EIOPA's feedback on comments received from IRSG (Annex I), together with the consulted document updated as a result of the comments received (Annex II).
- 1.4. In relation to the draft Guidelines on ORSA, EIOPA has included the explanatory text in this Final Report, as it did in the Consultation Paper, in order to assist readers in understanding the thinking behind specific points in the Guidelines.
- 1.5. The draft Guidelines in this Final Report may still be subject to amendments in order to reflect future developments of any underlying legally binding Union acts.
- 1.6. The Omnibus II Directive (OMDII) will set the date of entry into force of the Solvency II regime. EIOPA strongly supports, within the constraints of the final decisions of the Parliament and the Council on the timeline and the scope of the technical standards, the entry into force of Solvency II from 1 January 2014.

## 2. Purpose

- 2.1. The current EU regime does not focus adequately on risk management and it does not provide incentives for EU (re)insurers to measure and properly manage their risks. Supervisory requirements with regard to risk management vary widely across Member States. These differing requirements impose unnecessary costs on the (re)insurance undertakings and do not provide a level playing field.
- 2.2. ORSA is an important element to improve the risk management of EU (re)insurers, to promote a better understanding of the undertaking's overall solvency needs and capital allocation as well as the interrelation between risk and capital management. As a consequence, ORSA should ensure better policyholder protection. Moreover, the presented requirements should guarantee that sufficient and clear information on a company's risk profile and capital position is provided to the public and is not misleading.
- 2.3. A further fundamental aspect of the ORSA is that it enhances the responsibility of the company's Board not to take on more risks than their capital base allows.
- 2.4. EIOPA acknowledges that the effective transition to the Solvency II regime and in particular compliance with the ORSA requirements from day one requires that early preparations are made for implementation.
- 2.5. The preliminary draft of the ORSA requirements was presented as work in progress to stakeholders in a CEIOPS' Issues Paper on ORSA in May 2008. The focal point of this issues paper was the so-called 'solo ORSA', i.e. for a single entity of a company. After that public consultation it became evident that group issues on the ORSA were a major concern for stakeholders. At a later stage, it also became clear that guidelines on the interaction between the ORSA and partial and full internal models was an important issue that needed to be addressed as well.
- 2.6. In the winter of 2010/2011 EIOPA invited representative stakeholders at European level to participate in the informal consultation ("pre-consultation") on the ORSA draft requirements.
- 2.7. EIOPA consulted publicly on draft ORSA requirements at the end of 2011 in Consultation Paper 8 (CP No. 11/008), and the consultation with IRSG ended 03 February 2012.
- 2.8. EIOPA now considers that it is important for the effective and timely implementation of Solvency II ORSA requirements that the updated guidelines are now provided, which undertakings can use as the basis for their preparations.

### **3. Feedback Statement**

#### **I. Introduction**

1. EIOPA would like to thank IRSG for having provided comments on the Consultation Paper on the ORSA draft Guidelines. These provided valuable suggestions for improving the Guidelines and helped in identifying areas needing further clarification.
2. These amendments made cover not only clarifications, including the acceptance of a number of rewording suggestions from IRSG, but also some changes to the content of Guidelines and the accompanying explanatory text.
3. The feedback statement outlines first, the comments received from IRSG to CP No. 11/008 and second, the review and resulting changes made to the ORSA requirements by EIOPA.
4. For a complete overview of all comments, review and resulting changes made to the draft ORSA guidelines please refer to the [EIOPA Final Report on Public Consultation No. 11/008 on the Proposal for Guidelines on Own Risk and Solvency Assessment](#).

#### **II. EIOPA review of the Guidelines**

5. In this Final Report EIOPA will not provide more details on proportionality and materiality or questions of how certain issues arising from the ORSA are to be addressed in practice. Undertakings are expected to have the necessary competence and expertise to find fit-for-purpose solutions for the practical challenges they face. The application of the proportionality principle in practice must be determined on a case-by-case basis. As with materiality, it is up to the undertakings to determine how to comply with the materiality principle and – if asked to do so - to justify to the supervisory authority why the approach taken is proportionate or why certain information or risks are considered immaterial.
6. The definitions given in Directive 2009/138/EC and the implementing measures also apply to Guidelines. Where terms are used in either of these texts but not defined there, EIOPA accepts this decision and does not seek to provide a definition for the Guidelines either. This also applies for some terms including the word “risk”. When new terms are introduced in the Guidelines EIOPA has now supplied a definition, unless a term is considered to be self-explanatory. Regarding terminology, EIOPA, for the sake of consistency, will keep the terms that are used in Directive 2009/138/EC even where a number of respondents expressed their preference for a different term.
7. EIOPA is aware that the active role of the AMSB in the ORSA requires a certain level of expertise from the AMSB. An AMSB is expected to have the necessary qualifications to provide for the sound and prudent management of the undertaking. This includes that it possesses enough knowledge to actively understand the core information about the undertaking that is contained in the ORSA. Regarding management actions, EIOPA considers it

to be within the remit of the AMSB to decide what actions would be taken if certain risks, with a major effect on the undertaking, were to materialise.

8. It is acknowledged that Article 41 of the Directive 2009/38/EC, which sets out a number of written policies that undertakings are required to have, is not intended to be a comprehensive list. Since the ORSA process is often complex and generally requires a high quality input from a number of sources within the undertaking, EIOPA is convinced that it is necessary for undertakings to have an ORSA policy setting out for example the roles and responsibilities of the participants, a high-level description of the processes and procedures, and certain qualitative requirements to ensure that the ORSA provides appropriate results and meets its core objectives. Furthermore, it is important and a matter for supervisory scrutiny that the ORSA policy meets the requirements expected of a written policy, for example that it is subject to approval by the AMSB.
9. Since the ORSA is part of an undertaking's risk management, it could be argued that the risk management policy has to cover the ORSA. EIOPA's opinion is that undertakings may have an ORSA policy as part of their risk management policy or separate of it. Since neither the Directive nor the implementing measures mention them as different policies, EIOPA believes that the policies do not necessarily have to be separate. Equally, policies, such as the ORSA, do not have to be joined into a broader policy, such as the risk management policy, just because they concern some part of the area that is supposed to be covered by that broader policy. Hence, undertakings may have an ORSA policy as part of their risk management policy or separate of it.
10. Since the comments showed a number of misconceptions about the recording of the ORSA, EIOPA wants to clarify this requirement. First of all, the fact that undertakings have to document the ORSA does not mean that the documentation has to be produced specifically for the purpose of the ORSA. The aim of the documentation is to have an "audit trail" which enables a knowledgeable third party to reconstruct an individual ORSA, i.e. to be able to determine what input data and assumptions were used and what was the output from the ORSA, and how the undertaking arrived at the output. The "transformation part" will require new documentation and the same may be true for some of the output, which was not included in the internal ORSA report or the ORSA supervisory report, due to it being considered immaterial. But the input data will to a large extent be information that is already documented elsewhere in the undertaking. In this case a reference to the relevant data is sufficient.
11. The reference to a knowledgeable "third party" is to somebody who may want to check that the ORSA was performed appropriately, so that party has to have the necessary skills to assess an ORSA performance. Hence, the undertaking is not required to adjust the available documentation making it 100% user-friendly, but the record has to be sufficiently clear and comprehensive to allow the understanding of what has been done in the ORSA and the reasons for this. A record of an individual ORSA will in most cases contain more information than is contained either in the

internal ORSA report or the ORSA supervisory report as these are focused on main outcomes and not full documentation.

12. The ORSA supervisory report is not necessarily a specifically prepared report. It could be a self-contained subset of the internal ORSA report, provided that the internal report meets supervisory needs. Supervisory authorities will not accept an internal ORSA report if it lacks information the supervisory authority expects to receive about the ORSA or if it contains information that is clearly surplus to requirements for supervisory purposes. In this case, the undertaking does not have to change the internal ORSA report – unless the supervisory authority also considers it to be lacking the minimum necessary information for internal information purposes – but to prepare a separate ORSA supervisory report that meets the regulatory and supervisory requirements.
13. There will be no specific approach for captives just as there is no specific approach for mutuals, mono-line undertakings, etc. or other specific groups of undertakings, although all these categories of undertakings may claim that there are some specificities that apply especially to them. Captives will benefit from proportionality where this is warranted in view of the nature, scale and complexity of the risks they face just as any other undertaking. While there are certain similarities between captives just as there are between mutuals and mono-liners, it cannot be assumed up front that all captives are basically the same and that there can thus be an applicable special one-size-fit all approach.
14. Concerning the quantification of risks EIOPA does not deny that some risks are considerably more difficult to quantify than others, and also that there are other measures than covering risks with capital, which may be better suited to managing certain risks. However, this is no reason not to quantify these risks. Undertakings should be aware of the amount of capital that could be consumed if certain risks were to crystallize and should not be satisfied with a qualitative assessment just because this is less challenging. Even if it may be difficult to exactly quantify the required capital or loss in economic terms for certain risks, it should still be possible to assess its magnitude. In risk management, it is important to understand the risk and whether it will have a low or high impact even if no exact quantification can be made. It is also worth adding that it is because EIOPA acknowledges the difficulty of quantifying certain risks that a range of values is also acceptable (as referred in the explanatory text of Guideline 8).
15. Following the comments on the forward-looking perspective EIOPA will no longer maintain the requirement that undertakings quantify their overall solvency needs for each separate year of the ORSA projection period. Instead EIOPA now asks that undertakings cover their prospective overall solvency needs for an appropriate multi-year perspective, taking into account multi-year tendencies and developments. EIOPA is fully aware that such multi-year projections will not necessarily use the same methods as the assessment of the overall solvency needs on a one-year time horizon and that the result, therefore, might be less reliable. Concerning groups, EIOPA agrees that the requirement concerning the forward looking

perspective focused on a very specific aspect of the definition of the time horizon that might not be detailed in the ORSA report (the influence of the planning horizon of undertakings within the group on the planning horizon of the group). The guideline 20 was then considered too prescriptive and deleted.

16. The wording of Guideline 11 on regulatory capital requirements has been changed to stress the necessary assessment and reduce the focus on the processes required of the undertaking. This change in wording should, however, not obscure the fact that undertakings must have appropriate processes and procedures in place in order to be able to carry out the assessment of their continuous compliance with the regulatory capital requirements adequately.
17. Undertakings will have to rely on their own judgement (and experience) to provide further specification of when there is a significant deviation of the risk profile. The effect on the SCR if the deviation were taken into account is the final trigger point but undertakings should take into account that depending on, for example the volatility of the assumptions, the trigger could be higher or lower. It will be up to undertakings to justify the result if they come to the conclusion that the deviation is not significant.
18. The implementing measures will determine when the ORSA supervisory report has to be submitted - whenever a regular ORSA is being performed - but there is no prescription as to when in the undertaking's business cycle the ORSA should be performed, and EIOPA considers this to be a decision for the undertaking. However, since the undertaking, as part of the ORSA, has to assess whether its risk profile deviates from the assumptions underlying the SCR calculation, EIOPA expects there to be a connection between the timing of the ORSA and the timing of a (full) SCR calculation. The significance of the deviation is to be determined by the expected impact on the SCR if the deviation were taken into account in the SCR calculation. Hence there is a connection with the SCR at the time the ORSA is being performed, and the deviation cannot be assessed on the basis of an SCR that may no longer be relevant due to circumstances changing in the meantime. EIOPA does, however, acknowledge the validity of the argument put forward by respondents that it should be possible to have different reference dates for the SCR calculation and the ORSA, provided that there have been no material changes in the risk profile in the meantime.
19. Concerning the scope of the ORSA at Group level, the text explicitly includes all the entities that are within the scope of the supervision, but does not limit the group to that scope. The scope can be extended according to how the group views itself.
20. The ORSA requirements applicable to groups in the Solvency II framework are limited to EU groups. This means that EIOPA does not believe it should provide explanation on how ORSA for third country groups should be performed.



21. The consultation paper does not address how the supervisory authority deals with the supervisory report on ORSA except concerning the language of the report. It is expected that the group ORSA will be in the same language as the group Regular Supervisory Reporting. In case there is a single ORSA document that covers the subsidiaries of the group, a supervisory authority in the college of supervisors may require a translation of the part of this single ORSA document concerning one supervised subsidiary. Some comments considered these requirements to be contradictory, but these two requirements deal with different cases. A single ORSA document will cover the group ORSA and also the ORSA of the undertakings which are part of the group. The other aspects relating to the workings of the college are not seen as specific to the ORSA and will be covered by EIOPA guidelines on colleges and the Supervisory Review Process.
22. The requirement initially in the explanatory text of the Guideline 19 concerning the diversification effects at the level of the group and their allocation to undertakings which are part of the group were maintained as this is expected to be a valuable tool to assess the impact of each undertaking of the group on the group's overall solvency needs, and also because it can be considered a valuable tool to manage the capital allocation in the group.

### **III. Comments from the Insurance and Reinsurance Stakeholders' Group (IRSG)**

23. The comments from the IRSG were in the same direction as the comments received from other respondents but they also pointed out some additional aspects.
24. IRSG believed to agree with other respondents regarding the concern that the guidelines and explanatory text in some cases were too prescriptive and that the ORSA reporting should not be overly engineered. The Group was among those stakeholders who thought that ORSA reports are prepared for the AMSB and subsequently shared with the supervisory authority. In general the guidelines were deemed to be somewhat too ambitious in many aspects since standard formula users - as opposed to internal model users for whom the specifications in the guidelines were mostly already mapped in the internal model - were completely new to these requirements.
25. IRSG asked that a simplified forward-looking projection should be considered acceptable, including a qualitative assessment highlighting multi-year tendencies and developments.
26. The IRSG also supported the view that clear definitions of various terms containing the word "risk" should be provided in order to avoid confusion with the usage of the same terms being used in a broader corporate environment, and offered to review and suggest additions to the CEA Solvency II Glossary.

27. With regards to overall solvency needs, IRSG supports the view of other respondents that a purely qualitative assessment should also be acceptable.
28. In view of the important connection between the ORSA and the SCR, IRSG asked EIOPA for clarification of the relationship, and an order of priority, between qualitative and quantitative requirements, including a clear statement in the guidelines that the MCR is the only requirement to be met "at all times".
29. EIOPA has addressed all these comments by introducing changes, clarifications and amendments as necessary in this Final Report and the revised Guidelines contained within in.
30. The relationship between the ORSA and the SCR is quite clear from Article 45 of Directive 2009/138/EC. The ORSA requires a number of assessments from undertakings, some of which have to do with the SCR. As part of the ORSA an undertaking has to assess its continuous compliance with the regulatory capital requirements, which requires the undertaking to determine the frequency and quality of its SCR calculations, how often a full calculation is necessary to be sure of compliance, and when estimates or estimates combined with a partial calculation are sufficient. The undertaking also has to look at how its SCR evolves over time, taking into account internal and external factors that could influence the regulatory capital requirement. This does not require that the undertaking to hold the own funds necessary to meet future SCR needs, but that it has appropriate capital planning and capital management in place to avoid a situation where additional eligible own funds are only available after the SCR has increased.
31. The undertaking also has to assess its continuous compliance with the requirements on the calculation of technical provisions as these play an important role in the calculation of the own funds and thus are highly relevant for the constant compliance with the SCR and MCR.
32. The assumptions underlying the calculation of the SCR, but not the SCR itself, are relevant for the assessment of whether the undertaking's risk profile is covered appropriately by the SCR calculation. This does not require a comparison between numbers, i.e. the SCR and the overall solvency needs, but between risk profiles. The comparison is therefore between the actual risk profile of the undertaking and the risk profile perfectly reproduced by the either standard formula or the internal model depending on which is used by the undertaking. .
33. For the purpose of the assessment of the overall solvency needs the SCR is not the decisive element and an undertaking is not required to follow Solvency II principles. If an undertaking determines its overall solvency needs in relation to its SCR, EIOPA would expect the undertaking to demonstrate that this approach is appropriate and not just used on a best effort basis.

34. There is no order of priority between qualitative and quantitative requirements of the ORSA, as both are important. Hence, while admitting that some risks are better managed by other measures than by covering the risk with capital, pure qualitative assessments of risks that will be handled qualitatively will not be acceptable. Even risks that are ultimately managed qualitatively should not only be assessed qualitatively; they should also have some form of quantitative assessment. Furthermore, EIOPA expects undertakings to quantify their estimated SCR requirement going forward as this is essential for adequate capital management. Acknowledging that quantitative assessments can be more challenging for undertakings, EIOPA has sought to lighten the burden on undertakings with regard to a deviation between an undertaking's risk profile and the calculation of the SCR by only asking for quantification where this may be relevant on account of the deviation being significant.
35. EIOPA acknowledges that the outcomes of the ORSA may show that the SCR is not continuously met by all undertakings. However, it must be emphasized that deliberate breaches of capital requirements are never an option, not even temporarily. To the contrary undertakings have to take all reasonable measures to ensure that they do not breach these regulatory capital requirements.

## 4. Annexes

### 4.1. Annex I

<b>Feedback on Comments received on Consultation Paper -                      EIOPA-CP-11/008                      CP No. 008 SII ORSA                      of the draft for Guidelines on                      Own Risk and Solvency Assessment                      From IRSG</b>				
The numbering of the paragraphs refers to Consultation Paper No. 008/11 (EIOPA-CP-11/008)				
No.	Name	Reference	Comment	Resolution
	IRSG	General Comment	<p>1. ORSA adds value to the transversal awareness on risks</p> <p>We consider ORSA as an opportunity to reinforce the debate on risks across the company. For us it means non-quantifiable risks as well as quantifiable risks (4.28). At each level, from the insurance intermediary to top management, everyone has to be involved in enhancing a risk culture, while taking care of proportionality.</p> <p>ORSA has to be set up so as to fit as closely as possible the characteristics of the respective undertaking. It means that the content of the ORSA in terms of qualitative and quantitative information must have a common basis which cannot be a one-size-fits-all process to reach them. In other terms, the company has to justify the method chosen to apply ORSA to the supervisor as</p>	<p>Agree.</p> <p>Agree.</p> <p>Agree</p>

		<p>well as to the internal stakeholders, even if, internally, ORSA is directed to the board. Given the importance of the relationship of ORSA and SCR, it would be helpful to clarify more the relationship and order of priority of qualitative requirements (which must be core for ORSA) and quantitative requirements (eg 3.23, 3.28, 4.19 - 4.21). However it´s important to remark that ORSA is an undertaking driven initiative for management purposes, it is not a supervisory tool and should not be altered for supervisory purposes.</p> <p>The SCR is calculated over a one year time horizon whereas ORSA will also look into the longer term business planning time horizon and therefore the longer term view of the ORSA should not serve to calculate a regulatory capital requirement and impose capital add-ons</p> <p>The guidelines on ORSA should state clearly that the MCR is the only requirement to be met "at all times".</p> <p>What is crucial in ORSA , is the explanation on the way it had been internally proceeded to get to the goal pursued (as is already embedded in articles 3.17 a &amp; b). An undertaking's business strategy will feed into the ORSA in terms of establishing the parameters for assessment. As such, the results will help the board to fulfil this strategy while balancing the risk profile and risk appetite of the undertaking.</p> <p>We support that this analysis and this process in themselves have to be broadly shared, explained and disclosed among the stakeholders inside the company as well as for the benefit of the supervisor.</p> <p>In terms of ORSA reporting, however, we believe that the ORSA report should capture an undertaking's underlying management processes and should not be overly engineered. ORSA reports are prepared for the AMSB, and subsequently shared with the supervisor.</p>	<p>In view of stakeholder comments EIOPA considers that the relationship of quantitative and qualitative requirements is sufficiently clear.</p> <p>Noted</p> <p>Agree. This is also very clear from art. 45(7) of the Directive.</p> <p>Disagree. The need to ensure that the SCR is met at all times does not imply that all undertakings will succeed all the time but they have to strive for continuous compliance and may not deliberately risk non-compliance.</p> <p>Noted.</p> <p>Noted.</p>
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		<p>To summarize, we consider ORSA as a sound and fruitful process if it is implemented in order to enhance a self analysis of the company under the point of view of the risk, and with the involvement of the appropriate persons and functions.</p> <p>2. Too prescriptive guidelines would raise concerns</p> <p>In some cases, the guidelines and explanatory text go beyond the objectives of ORSA and provide a lot of details on the processes regarding the way to reach the goal, and appears to be too prescriptive.</p> <p>The guidelines are a little bit too ambitious in many aspects. Although there is a formal distinction between users of the standard formula and users of an internal model, there is no real difference in practice: for users of internal models, a lot of the aspects specified in the guidelines are mapped in an internal model. For users of the standard formula on the other hand a lot of those things are "unknown territory". A simplified approach should be available for undertakings presenting lower risks.</p> <p>3. Vocabulary on corporate governance should be clarified and aligned with the corporate governance framework at EU level</p> <p>ORSA concerns risk management and Governance responsibilities.</p> <p>ORSA is part of Solvency II and as such part of a regulatory approach, not corporate law.</p> <p>In parallel, corporate governance and thus administrative, management or supervisory body (AMSB) responsibility as well as risk management and risk governance are discussed under the headings of corporate governance and company law equally at a European level.</p>	<p>Noted.</p> <p>Noted.</p> <p>Noted.</p> <p>Agree.</p> <p>ORSA is written based on the terminology from the Directive as well as the implementing measures.</p>
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			<p>Many terms are used in both the regulatory approach as well as the corporate approach. This leads to confusion which needs to be avoided for the users, i.e. the (re)insurers. For example, the term "risk profile", which appears repeatedly in the context of ORSA and Solvency II, is used also in the Green Paper on the EU corporate governance framework (Green Paper 2011) – apart from being referred to also in Basel III/CRD IV as well as other documents concerning financial institutions. Ambiguities and misunderstandings must be avoided.</p> <p>As a consequence it would be good if we had clear definitions as regards the various terms used in combination with "risk". We could review and suggest addition to the CEA Solvency II Glossary.</p> <p>With regards to the role of the administrative, management and supervisory body (top-down approach), 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, with the support of the risk management function.</p>	<p>Noted.</p> <p>Agree.</p>
	IRSG	3.6	<p>This introductory guideline should precise that the AMSB's involvement in the ORSA process needs clarification, taking into account the introduction of new Recital 44 a CRD IV by ECON</p>	<p>EIOPA considers that it does stress the AMSB's involvement.</p> <p>Recital 44a of CRD IV "explains" the use of terminology. EIOPA has clarified the term AMSB in the guidelines and recommendations on the System of Governance.</p>
	IRSG	3.14	<p>With the agreement of the local supervisor, it should be possible to perform an ORSA at an intermediate aggregation level when some local entities are not differentiated in terms of management and operate in the same country. Indeed, in such situations, performing the ORSA for each entity seems pointless as the entities are</p>	<p>This solution is not foreseen in the Directive or the implementing measures. EIOPA takes note of this comment.</p>

			managed at a global level. However, ORSA should provide quantitative and qualitative information for each legal entity (no sub-group view).	
	IRSG	3.16	We agree that the role of the AMSB is to perform and challenge the results of ORSA, also including the emerging results.	Noted
	IRSG	3.17	<p>Is it really requested by Article 45 para 2 Solvency II to have an internal report as well as a supervisory report? 4.16 seems to suggest, that only one report is produced covering internal purposes as well as supervisory needs.</p> <p>ORSA is a valuable tool for management purposes and reporting of ORSA results should reflect this. Undertakings should have flexibility to determine whether the internal report would also serve supervisory needs.</p> <p>It is important that the ORSA process is not made too burdensome and costly for smaller undertakings and one report would be a proportionate approach.</p>	The undertaking will be required to decide whether the internal report is suitable for the purposes of insurance supervision as well. Every undertaking, not just smaller ones, can have only one report that serves for internal and external reporting purposes provided that it appropriately takes into account supervisory needs.
	IRSG	3.18	We consider that the point c), information on “(ii) data quality requirements” should be suppressed as data quality issues are already adequately dealt in the Solvency II framework	As the data quality for the ORSA is supposed to be in line with the general data policy a reference to that policy is sufficient.
	IRSG	3.19	This general rule regarding the documentation does not add any value compared to Guideline 3 and the explanatory text of the Guideline 5 is too prescriptive. Therefore, we suggest to delete Guideline 5.	<p>EIOPA considers guideline 5 to “explain” what is required as the record of each ORSA as set out in the documentation requirements in guideline 3.</p> <p>EIOPA does not consider the explanatory text to be prescriptive at all as it just mentions the issues that have to be touched upon. From the purpose of the documentation it is hardly possible to argue that any of these points could be left out.</p>



	IRSG	3.20	We agree with this guideline and we consider that the emphasis should be on the implications for business policies.	Noted.
	IRSG	3.23	3.22 and 3.23 highlight quantitative terms. Article 45 para 7 Solvency II states in absolute clear terms that ORSA does not serve to calculate a capital requirement. Accordingly, it would seem appropriate for the guidelines to emphasize that any ORSA figure will not replace the SCR calculation and that there will not be any automatic capital add-ons.	EIOPA disagrees that further emphasis is needed. Article 45(7) of the Directive is perfectly clear on this point which is why it is not an issue for the guidelines and recommendations.
	IRSG	3.25	We agree that an insurer should do forward-looking analyses to demonstrate its ability to manage risk over the longer term.  To provide a very detailed breakdown per year of the business planning period would be however very burdensome and it should be clear that a simplified forward looking projection, is acceptable. Including for example a qualitative assessment highlighting multi-year tendencies and developments	Noted.  EIOPA has changed the text accordingly.
	IRSG	3.27	New wording proposal :  As part of the ORSA process the undertaking should ensure that the actuarial function provides input concerning the capacity continuously to comply with the requirements regarding the calculation of technical provisions	Disagree with the proposed wording. EIOPA considers that there needs to be focus on what risks arise from the calculation.
	IRSG	3.28	New wording proposal :  The undertaking may assess deviations between its risk profile and the profile set underlying the SCR standard formula calculation on a qualitative basis. If this assessment indicates that the undertaking's risk profile deviates materially from the profile set underlying the SCR calculation the undertaking should quantify the approximate significance of the deviation.	Disagree  We consider the proposed change to make the guideline less clear and more subject to interpretation.

	IRSG	3.30	Delete reference to higher frequency review: the possible need for higher frequency is dealt in Guideline 4 on ORSA Policy.	Disagree. Guideline 4 only states that the ORSA policy has to say something about the frequency of the regular ORSA and not about what to take into account in deciding on the frequency or about justification. Guideline 4 is only more specific on the non-regular ORSA which is not addressed in Guideline 15.
	IRSG	3.33	<p>Paragraph 3.32 requires the Group ORSA to be in the same language as the Group RSR. This paragraph elaborates that the group may be required to provide translations into local languages.</p> <p>This may undermine the benefits of performing a group ORSA.</p> <ol style="list-style-type: none"> <li>1.</li> <li>2. Translations should be limited to situations where the group supervisor must work specifically with that local supervisor with regards to the solvency situation of the group.</li> </ol>	<p>This is about the single ORSA document not about the group ORSA.</p> <p>See comment no. 209 to CEA. Unfortunately that cannot be helped as the local supervisor needs the information that is to be translated.</p> <p>The situation is such that the particular information to be translated from the single ORSA document is information that concerns the local supervisor as part of the SRP on the subsidiary.</p>
	IRSG	3.40	<p>This guideline should be aligned with the guidance provided on the group SCR. For example, if the deduction &amp; aggregation method is used for parts of the group, several of the assessments are not relevant.</p> <p>If the third country regime is considered to be equivalent there should be no need to state the consequences of applying local capital requirements and technical provisions calculations. Otherwise it could be interpreted that the equivalence decision has been contested.</p> <p>Therefore we would add at the end of the paragraph: "this requirement does not apply to undertakings whose country regime is considered to be equivalent".</p>	This Guideline has been redrafted.

IRSG	4.3	<p>Given the procyclical design of standard formula (for example mass lapse risk), it will be impossible to ensure that the SCR will be met "at all times", as indicated in this guideline. There'll always be a stressed scenario where, if it happens, the SCR will be broken. These guidelines should say "ensure with a sufficient probability...". To improve the awareness of the AMSB, an analysis of scenario breaching the SCR should be provided in ORSA.</p> <p>When analyzing a stress scenario, undertaking should be allowed to take into account EIOPA's action to allow a countercyclical premium. And the guidelines should recognize that during a major financial crisis, MCR is the only requirement to be met at all times.</p>	<p>Disagree</p> <p>The need to ensure that the SCR is met at all times does not imply that all undertakings will succeed all the time but they have to strive for continuous compliance and may not deliberately risk non-compliance.</p>
IRSG	4.5	<p>The second sentence is unclear and also seems superfluous. Therefore, it should be deleted.</p>	<p>Agree</p> <p>EIOPA has deleted this sentence.</p>
IRSG	4.8	<p>Add: "...with the support of the risk management function..." to be brought in line with EU thinking regarding stepping up the profile of the risk management function and corresponds to practical need.</p>	<p>Disagree</p> <p>We want to stress the responsibility of the AMSB and the need to be able to discharge it.</p>
IRSG	4.10	<p>Second sentence: The AMSB can in some cases not [and need not always] give instructions to management. Better wording: "It also challenges the management on actions..." (instead of "gives instructions").</p>	<p>Disagree</p> <p>If the undertaking wants to take into account that it would not just let a potentially dangerous situation deteriorate without taking counter measures, the AMSB has to make known which counter measures it would take in which circumstances in order to save the situation.</p>
IRSG	4.14	<p>e) Solvency II is designed on a one-year-period time frame. A demand for a multi-year-period time frame based on the planning period seems to be very onerous. Guidelines should explicitly give allowance for simplified</p>	<p>Disagree</p> <p>e) is about overall solvency needs and not the SCR. However, EIOPA has changed the text. The expectations for</p>

			estimation methods, such as projecting the SCR for future period and the use of scaling factors.	the multi-year period are now less granular.
	IRSG	4.16	We do not understand this statement as the ORSA report provided to the Supervisor must be consistent with the ORSA internal report approved by the AMSB. It can not be additional to the internal report.	Disagree However EIOPA agrees that consistency of content is a must which does however not preclude two reports. The internal report can be used for reporting to the supervisor provided it is suitable for serving supervisory needs.
	IRSG	4.21	There is no further assessment if the planned risk mitigation techniques are realistic . The explanation of the undertaking must focus more on efficiency, applicability of risk mitigation tools.  Furthermore this is already subject to the Supervisory review process and the activities of the actuarial function. This should not be duplicated in this process.	Noted. The paragraph does not ask for the duplication of the assessment of risk mitigation techniques or for additional assessments, but EIOPA has changed the text to clarify this.
	IRSG	4.25	In this section (as well as in many other sections) the impression is that users of the standard formula are confronted with the demand to introduce a "quasi" internal model by the "backdoor" of ORSA guidelines. If Solvency II allows the use of a standard formula for SMEs than there should not be too much effort for SMEs to prove the adequacy of this formula.	The paragraph is not about the SCR calculation but about overall solvency needs assessment which EIOPA as a rule would expect to be assessed "independently" from the standard formula. If an undertaking uses the standard formula as a starting point anyway supervisors want to be shown that this is because it is appropriate for the undertaking not because it is the easy way out.
	IRSG	4.28	Following completion of an ORSA, the undertaking should be able to provide an assessment of, and differentiate between, material and immaterial risks.  While we agree that all risks should be covered by ORSA, there are certain risks which are handled more	Disagree We are aware that in some cases quantification is more difficult or can be less reliable than in others but we expect some "amount" to be given.

			<p>appropriately in a qualitative way. It should be clarified in this paragraph that a “pure qualitative assessment” is also acceptable.</p> <p>Suggested text: “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 or purely qualitative. It is however required that the undertaking demonstrates the rationale for the assessment.”</p>	
	IRSG	4.31	<p>We suggest to precise the point b) to include here insurance frauds and operational risks</p>	<p>Disagree</p> <p>EIOPA will not include this level of detail. The list does not include the “normal” risks that need to be included and that EIOPA would expect undertakings not to “forget” anyway. Insurance fraud and operational risks should be covered as part of these “obvious” risks.</p>
	IRSG	4.34	<p>It is unclear to us whether the text in this paragraph implies that entities in a winding up situation do not have specific requirements for ORSA.</p> <p>With regards to reconciliation requirements, please refer to paragraph 3.25 for comments on the use of qualitative assessments.</p> <p>We propose to change the last sentence as follows, “these projections, if required, are to feed...”. This provides consistency with the previous sentence, which suggests that the projections “may be required” rather than that they will be required.</p>	<p>Partially agree.</p> <p>An undertaking in a winding-up situation does not have to consider the going concern question in the same way.</p> <p>EIOPA has included “if appropriate”.</p>
	IRSG	4.35	<p>Only significant changes and new business plans with a significant impact on the risk profile should need to be reflected (cf. references to Article 102 (1) subparagraph 4 in 4.40, 4.49 and 4.62).</p>	<p>Disagree</p> <p>Significant changes to the risk profile require a new ORSA anyway, this is to check whether there is an impact on</p>

				capital needs not to quantify an impact that is sure to be there.
	IRSG	4.38	<p>It is unclear what the relationship is between required stress tests, reverse stress test, sensitivity analysis, scenario analysis and the ORSA process (regular / non regular). Undertakings should have flexibility to decide whether stress tests or scenario analyses are necessary given their risk profile.</p> <p>Suggested text: "undertakings should carry out any of the following..."</p>	<p>Disagree</p> <p>Not using such tests and analyses at all or just using either is not an option and EIOPA does not want to give that impression with the suggested wording.</p> <p>Undertakings have flexibility in the decision of the extent to which tests and analyses are necessary given their risk profile.</p>
	IRSG	4.39	<p>This seems to be very onerous for users of the standard formula</p> <p>It is unlikely that smaller undertakings will use internal models and the proportionality principle must be considered.</p>	The Solvency II regime requires good capital management for undertakings to be able to comply with regulatory requirements. However, this does not imply that a) (internal) models are necessary or b) the principle of proportionality does not apply.
	IRSG	4.40	While reference to Article 102 (1) subparagraph 4 in the last sentence is not wrong, this reference would be more appropriate under Guideline 13 and could be added at the end of 4.49.	Article 102(1) subparagraph 4 has no connection with Guideline 13. The reference to Article 102(1) in the paragraph is only to stress that there is a limit to the discretion of the undertaking to decide on the frequency of the calculation of the SCR on account of the requirement in that article.
	IRSG	4.49	Add reference to Article 102 (1) subparagraph 4 at the end by way of shifting the last sentence of 4.40 to this place: "A full calculation is in any case required if the risk profile changes significantly according to Article 102 (1) subparagraph 4."	<p>See your comment no. 4.40.</p> <p>Article 102(1) subparagraph 4 has no connection with Guideline 13. The reference to Article 102(1) in the paragraph is only to stress that there is a limit to the discretion of the</p>

				undertaking to decide on the frequency of the calculation of the SCR on account of the requirement in that article.
	IRSG	4.50	It seems to be absolutely necessary to support users of the standard formula in carrying out 4.49, as far as it does not imply to justify the use of the standard formula.	Under Article 45(1)(c) undertakings have to assess the deviations of their risk profile from the assumptions underlying the standard formula
	IRSG	4.51	A lot of users of the standard formula do not understand the mathematical framework in its whole complexity. They will face very significant challenges to carry out all these estimations.	Noted
	IRSG	4.62	Add at the end: "A full calculation is in any case required if the risk profile changes significantly according to Article 102 (1) subparagraph 4." – this sentence was taken from 4.40 and added to 4.49 and here.	The sentence has no connection to the content of the paragraph.
	IRSG	4.75	Does the first sentence intend to make reference to Article 102 (1) subparagraph 4? In any event, the term "non-regular ORSA", if maintained, should be highlighted better as an important definition (e.g. in 3.14).	The reference is to Art. 45(5) of the Directive. Noted. The definition is not mentioned up front because the term is not mentioned several times. For a reader who knows Art. 45 of the Directive the meaning of the term should be obvious.
	IRSG	4.81	It should also be clarified in this section that regulated non-(re)insurance undertakings are not required to carry out a solo ORSA. This is consistent with paragraph 4.79 and 4.83.  Undertakings that do not have to comply should not be obliged to carry out Solvency II requirements. This goes much beyond the mandate of the framework directive.	Disagree EIOPA does not consider that this very obvious fact needs clarification.
	IRSG	4.85	The translation obligations under Guideline 17 seem overly burdensome. In any event, an English version of the supervisory report should be sufficient; no ORSA	Disagree The translation may be necessary

			report is necessary for subsidiaries outside of EEA – please clarify explicitly. Likewise, non-regulated entities need not provide solo ORSA reports; overall "solo ORSA" and not "single ORSA" unless the difference is explained – applies to all the guidelines.	according to national law which in many cases does not allow for the submission of documents in other than the national language(s).
	IRSG	4.92	<p>It will be very challenging to allocate diversification effects at group level to each entity of the group.</p> <p>It will also be challenging to carry out appropriate sensitivity analyses of diversification effects at group level, and group solvency, with respect to material changes of the group structure. The group ORSA process should focus on a qualitative assessment of these issues.</p> <p>The exact assessment/s should be determined by the undertaking.</p> <p>Suggested text: c) appropriate sensitivity analysis, stress and/or scenario analysis.."</p>	<p>The Explanatory Text has been redrafted.</p> <p>EIOPA would like to stress the fact that qualitative assessments of the risks at group level are not sufficient to meet this requirement.</p>
	IRSG	5.45	Reference in sentence 2 "at all times" should be clarified, so as not to mean e.g. on a daily basis. Technical correction: "requires".	<p>Disagree</p> <p>It is not possible to interpret "at all times" i.e. "continuously" in a way that does not include "on a daily basis".</p>



## 4.2. Annex II

# Draft Guidelines on Own Risk and Solvency Assessment and Explanatory Text

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# Guidelines on Own Risk and Solvency Assessment (ORSA)

## Introduction

- 1.1. According to Articles 45 and 246(4), as well as 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)<sup>1</sup>, hereinafter referred to as the "Directive" or as "Solvency II", and aware of the requirements of the ORSA, the present Guidelines seek to provide additional details on how the ORSA required by the Directive is to be interpreted.
- 1.2. The guidelines focus on what is to be achieved by the ORSA rather than on how it is to be performed. Since the overall solvency needs assessment represents the undertaking's own view of its risk profile and capital needs as well as 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.
- 1.3. The guidelines apply to both individual undertakings and participating insurance or reinsurance undertakings or the insurance holding company, at the level of the group and to group level undertakings. Additionally, the guidelines - in a separate section - address issues relevant to the group specificities of the ORSA, in particular on account of specific risks to the group or risks that could be less relevant at individual level than at group level.
- 1.4. The guidelines apply similarly to standard formula and partial and full internal model users with some additional explanations dedicated specifically to the latter.
- 1.5. 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 Solvency Capital Requirement (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.
- 1.6. EIOPA acknowledges and supports the developments and achievements on a global scale and national level outside the European Union with regard to setting standards for Own Risk and Solvency Assessments. It is crucial that the administrative, management or supervisory body is aware of all material risks the undertaking faces, regardless of whether the risks are included in the SCR calculation or whether they are easily quantifiable, and that the AMSB also takes an active role in the ORSA, directing and challenging its performance.

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<sup>1</sup> OJ L 335, 17.12.2009.

- 1.7. The assessment of the overall solvency needs does not necessarily call for a complex approach. But it has to be sufficiently comprehensive to effectively reflect the undertaking-specific risk profile.
- 1.8. 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 defined for the ORSA and as part of the SCR calculation consider the same reference date
- 1.9. Internal model users should use the model in the performance of the ORSA to question the continued adequacy of the model for reflecting the risk profile of the undertaking.
- 1.10. The application for the use of a single ORSA document requires a high level of consistency in processes across the group and evidence of full compliance with the requirements of Article 45 at the individual level and Article 246(4) for groups.
- 1.11. The relevant guidelines for individual undertakings apply mutatis mutandis to the Group ORSA. Additionally, groups need to take into consideration the group specific guidelines.
- 1.12. The Guidelines shall apply from [date].
- 1.13. For the purpose of these guidelines, the following definitions apply:
  - the term "group level" means one coherent economic entity (holistic view) comprising all entities in the group as referred in the guidelines on the system of governance;
  - the term "group ORSA" means the ORSA undertaken at group level;
  - the term "single ORSA document" means the ORSA undertaken at the level of the group and at the level of any subsidiary of the group on the same reference date and period formalised in one document when supervisory agreement is given to do so.

## Section I: General considerations

### **Guideline 1 – Principle of proportionality**

1.14. 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)**

1.15. The administrative, management or supervisory body should take an active part in the ORSA including providing steering on how the assessment is to be performed and challenging its results.

### **Guideline 3 – Documentation**

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

- a) ORSA policy;
- b) record of each ORSA;
- c) internal report on ORSA; and
- d) ORSA supervisory report.

## Section II: ORSA policy

### **Guideline 4 – ORSA policy**

1.17. The ORSA policy should comply with the guidelines established under General Governance – Policies and include additionally at least:

- a) a description of the processes and procedures in place to conduct the ORSA including how the forward-looking perspective is addressed;
- 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 or reverse stress testing are to be performed and how often they are to be performed;
  - (ii) data quality requirements; and
  - (iii) the frequency and timing for the performance of the (regular) ORSA and the circumstances which would trigger the need for an ORSA outside the regular timescales.

### Section III: Record of each ORSA

#### **Guideline 5 – General rule**

- 1.18. The ORSA and its outcome should be appropriately evidenced and internally documented.

### Section IV: Internal report on ORSA

#### **Guideline 6 – Internal report on ORSA**

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

### Section V: Specific features regarding the performance of the ORSA

#### **Guideline 7 – Valuation and recognition**

- 1.20. 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.
- 1.21. 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**

- 1.22. The undertaking should express the overall solvency needs in quantitative and qualitative terms and complement the quantification by a qualitative description of the risks.
- 1.23. For this, and where appropriate 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 9 – Forward-looking perspective**

- 1.24. The undertaking's assessment of the overall solvency needs should be forward-looking.

**Guideline 10 – Regulatory capital requirements**

1.25. As part of the ORSA the undertaking should ensure that the assessment of compliance on a continuous basis with the regulatory capital requirements includes, at least, an assessment of:

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

**Guideline 11 – Technical provisions**

1.26. As part of the ORSA 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 12 – Deviations from assumptions underlying the SCR calculation**

1.27. 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 13 – Link to the strategic management process and decision-making framework**

1.28. 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 medium term capital management, business planning and product development and design.

**Guideline 14 – Frequency of the ORSA**

1.29. 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 VI: Group specificities of the ORSA****Guideline 15 – Scope of the group ORSA**

1.30. 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 insurance, reinsurance and non-insurance undertakings and both regulated and non-regulated (unregulated) entities, situated in the EEA and outside the EEA.

#### **Guideline 16 – Reporting to the supervisory authorities**

- 1.31. 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.
- 1.32. In case of a single ORSA document, where any of the subsidiaries has its head office in a Member State whose official languages are different from the languages in which the single ORSA document is reported, the supervisory authority concerned may, after consulting the group supervisor, the college of supervisors and the group itself, 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.

#### **Guideline 17 – Assessment of overall solvency needs**

- 1.33. 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.
- 1.34. The group should explain the key drivers of the overall solvency needs of the group including any diversification effects assumed.

#### **Guideline 18- General rule for group ORSA**

- 1.35. The record of the group ORSA should include, in accordance with Guideline 5, a description on how the following factors were taken into consideration in the forward-looking perspective:
  1. identification of the sources of own funds within the group if additional new own funds are necessary;
  2. the assessment of availability, transferability and fungibility of own funds;
  3. references to any planned transfer of own funds within the group and its consequences;
  4. alignment of individual strategies with those that are established at the level of the group; and
  5. specific risks the group could be exposed to.

#### **Guideline 19 – Specific requirements for a single ORSA document covering the participating insurance or reinsurance undertaking or the insurance holding company and any subsidiary in the group**

- 1.36. When applying to submit a single ORSA document, 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 20 – Internal model users**

1.37. In the case of using internal models, both to calculate only the group Solvency Capital Requirement under Article 230 of the Directive or group internal models under Article 231 of the Directive, the group should indicate the related undertakings within the scope of the group which do not use the internal model for the calculation of their Solvency Capital Requirement and the underlying reasons for that in the group ORSA report.

**Guideline 21 – Integration of related third-country insurance and re-insurance undertakings**

1.38. 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 the transferability and fungibility of capital.

**Compliance and Reporting**

1.39. This document contains Guidelines issued under Article 16 of the EIOPA Regulation<sup>2</sup>. In accordance with Article 16(3) of the EIOPA Regulation, Competent Authorities and financial institutions must make every effort to comply with guidelines.

**Explanatory text****Section I: General considerations**

1.40. 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.

1.41. The assessment of “overall solvency needs” reflects the way undertakings propose to manage the risks they face through capital needs or other mitigation techniques. This takes into consideration the 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

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<sup>2</sup> OJ L 331, 15.12.2010, p.48



and how to establish the appropriate premium levels and provides input to other strategic decisions.

- 1.42. The ORSA will also allow the undertaking to determine the adequacy of its regulatory capital position. The undertaking is required 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 and in the ORSA the undertaking has to assess whether it will succeed in this endeavour. 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.
- 1.43. 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.
- 1.44. 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.
- 1.45. The ORSA may call for the performance of tasks that the undertaking has already performed in another context in which case no duplication of tasks is required but the result reached is taken into account in the ORSA.

**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.**

- 1.46. 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.
- 1.47. 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 (top-down approach) (Article 45 of the Directive)**

**The administrative, management or supervisory body should take an active part in the ORSA including providing steering on how the assessment is to be performed and challenging its results.**

- 1.48. The AMSB approves the ORSA policy and ensures that the ORSA is appropriately designed and implemented.
- 1.49. 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.
- 1.50. 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.
- 1.51. As part of the ORSA 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.
- 1.52. It is also the AMSB's responsibility, taking into account the insights gained from the ORSA 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 capital requirements 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;**
- c) **internal report on ORSA; and**
- d) **ORSA supervisory report.**

- 1.53. Documenting information does not necessarily require that new reports or documents are drafted, it can be sufficient to refer to existing documents where these contain the relevant information and just record additional information if and insofar as this is necessary to present the full picture.

## **Section II: ORSA policy**

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

**The ORSA policy should comply with the guidelines established under**

**General Governance – Policies and include additionally at least:**

- a) a description of the processes and procedures in place to conduct the ORSA including how the forward-looking perspective is addressed;
- 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 or reverse stress testing are to be performed and how often they are to be performed;
  - (ii) data quality requirements; and
  - (iii) the frequency and timing for the performance of the (regular) ORSA and the circumstances which would trigger the need for an ORSA outside the regular timescales.

1.54. 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 III: Record of each ORSA**

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

**The ORSA and its outcome should be appropriately evidenced and internally documented.**

1.55. 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.

1.56. The record of each ORSA includes:

- a) The individual risk analysis, including a description and explanation of risks considered;
- 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 technical specification of the approach used for the ORSA assessment, including a detailed description of the key structure, together with a list and justification of the assumptions underlying the approach used, the process used for setting dependencies, if any, and the rationale for the confidence level chosen, if any, a description of stress tests and scenario analyses employed and the way their results were taken into account, and an explanation concerning how parameter and data uncertainty were assessed;

- e) For undertakings using an internal model approved to calculate the SCR, a description of the changes made to the approved internal model if any;
- f) An amount/range of values of the overall solvency needs over a one-year-period, as well as at the end of the business planning period and a description of how the undertaking expects to cover the needs along these years;
- g) 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;
- h) The identification and explanation of the differences identified 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;
- i) 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;
- j) A description of what internal and external factors were taken into consideration in the forward-looking perspective;
- k) Details of any planned relevant management actions, including an explanation and a justification for these actions, and their impact on the assessment; and
- l) A record of the challenge process performed by the AMSB.

## Section IV: Internal report on ORSA

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

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

- 1.57. The information communicated to the AMSB has to be sufficiently detailed to ensure that it 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.
- 1.58. 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 supervisory authority.

## **Section V: Specific features regarding the performance of the ORSA**

### **Guideline 7 – Valuation and recognition (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.**

- 1.59. The quantitative estimate of the impact includes all balance sheet effects. 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.

### **Guideline 8 – Assessment of the overall solvency needs (Article 45(1)(a) of the Directive)**

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

**For this, and where appropriate 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.**

- 1.60. 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 material risks.
- 1.61. The assessment covers all material 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.
- 1.62. When an insurance undertaking belongs to a group its ORSA has to consider all group risks that may impact materially the individual entity.

- 1.63. As the risk profile is influenced by the risk mitigation techniques used by the undertaking, the assessment of the impact and the effectiveness of reinsurance and other risk mitigation techniques plays a role in the ORSA. Where there is no effective risk transfer this has to be taken into account in the assessment of the overall solvency needs.
- 1.64. 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.
- 1.65. 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.
- 1.66. If the risks are managed with risk mitigation techniques, the undertaking explains which risks are going to be managed by which technique and the underlying reasons.
- 1.67. 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 under different scenarios.
- 1.68. 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 material 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.
- 1.69. 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 including the use of risk mitigation techniques;
  - c) Assess the quality of processes and inputs, in particular the adequacy of the undertaking's 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.
- 1.70. 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.

- 1.71. Undertakings using an internal model for the calculation of the SCR are required to develop and carry out, on a regular basis, their own stress tests and scenario analyses as part of the validation standards. Undertakings may need to develop further stresses and scenarios for the ORSA and the process for setting the stress and scenarios should be consistent with internal model requirements.
- 1.72. 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.
- 1.73. 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.
- 1.74. In the case of internal model users, the explanations and justifications required for internal models approval can be used, if appropriate in the context of the ORSA. Nevertheless specific explanations will cover any use of a different recognition or valuation basis in the ORSA than in the internal model used to calculate the SCR.

**Guideline 9 – Forward-looking perspective (Article 45 of the Directive)**

**The undertaking's assessment of the overall solvency needs should be forward-looking.**

- 1.75. 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.
- 1.76. 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 appropriate. These projections, if appropriate, 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.
- 1.77. The undertaking needs to project its capital needs over its business planning period. This projection is to be made considering likely changes

to the risk profile and business strategy over the projection period and sensitivity to the assumptions used.

- 1.78. 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 taking into account the new risk profile, business volume and mix as expected at the end of the projection period. 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.
- 1.79. 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.
- 1.80. 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, assumptions, parameters, dependencies or levels of confidence to be used in the projections.
- 1.81. 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 and risk profile.

**Guideline 10 – Regulatory capital requirements (Article 45(1)(b) of the Directive)**

**As part of the ORSA the undertaking should ensure that the assessment of compliance on a continuous basis with the regulatory capital requirements includes, at least, an assessment of:**

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

- 1.82. 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.

- 1.83. 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. These decisions are at the discretion of the undertaking and 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 of the Directive.
- 1.84. 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 and how a change in risk profile may impact on these.
- 1.85. The assessment also needs to consider the changes to the own funds position that might occur in stressed situations. The undertaking is expected to carry out stress tests and scenario analyses to assess the resilience of the business.
- 1.86. In considering the own funds with relation to changes in capital requirements 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 holds sufficient funds to meet an increase in SCR because an increase in the SCR could mean items which were previously ineligible, due to the operation of the limits, may become eligible as a result of an increased SCR.
- 1.87. When considering the quantity, quality and composition of its 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); and
  - 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.
- 1.88. When considering future own fund requirements the undertaking has to consider:

- a) Capital management including, at least issuance, redemption or repayment of capital instruments, dividends and other distributions of income or capital, and 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 extent to which the undertaking relies on own fund items under transitional arrangements and the period until these provisions expire;
  - c) The interaction between the capital management and its risk profile and its expected and stressed evolution;
  - d) 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;
  - e) 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; and
  - f) 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.
- 1.89. 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.
- 1.90. Capital management has to take into account the available timeframe for remedial actions in accordance with Articles 138 and 139 of the Directive as well as the characteristics of the business of the undertaking.

**Guideline 11 – Technical provisions (Article 45(1)(b) of the Directive)**

**As part of the ORSA 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.**

- 1.91. 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.
- 1.92. 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 12 – 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.**

- 1.93. 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.
- 1.94. 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.
- 1.95. 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.
- 1.96. 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.

- 1.97. 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.
- 1.98. 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**

- 1.99. Where the undertaking uses an internal model for the calculation of the SCR, the undertaking needs to demonstrate that the internal model plays an important role in the ORSA as set out in Article 120 of the Solvency II Directive.
- 1.100. 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.

### **Internal model users – Overall Solvency Needs**

- 1.101. 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. In this context, the ORSA includes the assessment of:
- a) the impact of the excluded material risks or major lines of business on the solvency position in the case of partial internal model;

- b) the interrelationship between risks which are in and outside the scope of the model; and
- c) the identification of risks other than those covered by the internal model, which may trigger a change to the internal model.

### **Internal model users – Deviation from assumptions underlying the SCR calculation**

- 1.102. 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.
- 1.103. 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.

**Guideline 13 – 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 medium term capital management, business planning and product development and design.**

- 1.104. In deciding on the business strategy the undertaking has to take into account the output from the ORSA.
- 1.105. 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.
- 1.106. 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 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.

1.107. 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 14 – 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.**

1.108. 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.

1.109. The undertaking decides when to perform the regular ORSA which as a rule needs to use the same reference date as the SCR calculation, but different reference dates could be acceptable if there has been no material change in the risk profile between them.

1.110. 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.

1.111. 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, internal model changes, portfolio transfers or major changes to the mix of assets.

#### **Section IV: Group specificities of the ORSA**

**Guideline 15 – 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 insurance, reinsurance and non-insurance undertakings and both regulated and non-regulated (unregulated) entities, situated in the EEA and outside the EEA.**

1.112. 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 individual 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;
- d) national specificities, their effects and reflection on group level.

1.113. 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.

### **(Re)insurance undertakings**

1.114. The reference to (re)insurance undertakings covers all entities taking-up insurance or reinsurance activities including captive (re)insurance undertakings.

### **Third country entities**

1.115. Although third-country undertakings are not required to produce a solo ORSA, they have to be included in the group ORSA, if they fall within the scope of group supervision.

1.116. 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**

1.117. The group ORSA assesses all material 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.

### **Unregulated entities**

1.118. Whilst unregulated entities are not subject to solo supervision and are not expected to perform ORSA at the individual level, they have to be included in the scope of group ORSA. if they fall within the scope of Group supervision."

1.119. The nature of the assessment with respect to unregulated entities will depend on the nature, size and complexity of each unregulated entity and its role within the group. Some unregulated entities 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, unregulated entities such as insurance holding companies may be just instrumental (e.g. 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 16 – Reporting to the supervisory authorities (Articles 153 and 246(4) of the Directive)**

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.

In case of a single ORSA document, where any of the subsidiaries has its head office in a Member State whose official languages are different from the languages in which the single ORSA document is reported, the supervisory authority concerned may, after consulting the group supervisor, the college of supervisors and the group itself, 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.

1.120. The following table summarises the reporting requirements linked to group ORSA:

		<b>Article 254(2), Article 35(2) (a)(i) and draft Article 294 SRS1</b>	<b>Article 254(2) and Article 35(2) (a)(ii)</b>
<b>Group ORSA (not including the assessment at individual level of the subsidiaries)</b>	<b>Participating undertaking</b>	Group ORSA supervisory report reported to the group supervisor, plus information in the group SFCR and in the group RSR	Group ORSA supervisory report reported to the group supervisor whenever an ORSA is performed
	<b>Subsidiary</b>	Solo ORSA supervisory report includes cross references to the group ORSA (supervisory report), plus information in the solo SFCR and RSR	Solo ORSA supervisory report includes cross references to the group ORSA (supervisory report).
<b>Individual ORSA (at subsidiaries' individual level)</b>			
<b>Single ORSA document covering all the assessments (article 246(4) 3<sup>rd</sup> subparagraph option)</b>	<b>Participating undertaking</b>	Single ORSA supervisory report submitted to all supervisory authorities concerned whenever a regular ORSA is performed, plus information in the group SFCR and in the group RSR	Single ORSA supervisory report submitted to all supervisory authorities concerned whenever a non-regular ORSA is performed

1.121. Specifically, the following two situations could arise:

- a) The participating undertaking does not apply for the single ORSA document. In this case, the participating insurance or reinsurance undertaking or the insurance holding company performs the ORSA at the level of the group and the individual undertaking performs its individual ORSA.



- b) The participating insurance or reinsurance undertaking or the insurance holding company opts for a single ORSA document. 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 17 – Assessment of 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.**

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

- 1.122. The group ORSA identifies the impact on the group solvency and related undertakings arising from all material risks that the group is facing. In addition to risks considered in the SCR calculation, all material risks including group specific risks particularly risks that are not easily quantifiable, have to be taken into consideration.
- 1.123. The group ORSA describes the interrelationships between the risks of the participating insurance or reinsurance undertaking or the insurance holding company and of the individual undertakings.
- 1.124. 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 individual 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.
- 1.125. 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.

1.126. In addition to the information required in 1.23 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) the outcome of the comparison between the group overall solvency needs and the sum of the solo overall solvency needs; and assessment of any diversification effects assumed at the group level.

1.127. A group specific component of the group ORSA, compared to the solo ORSA, is the analysis of diversification effects assumed at group level. This includes analysis of the reasonableness of the diversification effects assumed at the group level compared to the risk profile of the group and the overall solvency needs of the group.

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

- a) To determine the difference between the group overall solvency needs and sum of the solo overall solvency needs.
- 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 18- General rule for group ORSA**

**The record of the group ORSA should include, in accordance with Guideline 5, a description on how the following factors were taken into consideration in the forward-looking perspective:**

- 1. identification of the sources of own funds within the group if additional new own funds are necessary;**
- 2. the assessment of availability, transferability and fungibility of own funds;**
- 3. references to any planned transfer of own funds within the group and its consequences;**
- 4. alignment of individual strategies with those that are established at the level of the group; and**
- 5. specific risks the group could be exposed to.**

1.129. 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 19 – Specific requirements for a single ORSA document covering the participating insurance or reinsurance undertaking or the insurance holding company and any subsidiary in the group (Articles 246(4), 248 to 252 of the Directive)**

**When applying to submit a single ORSA document, 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.**

1.130. The single ORSA 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 individual level. This means that the single ORSA document also has to document the assessments undertaken by insurance and reinsurance subsidiary undertakings at the individual level under Article 45.

1.131. 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) 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 individual level by the individual supervisors concerned;
- b) the single ORSA report satisfies the requirements of both the group supervisor as well as the individual supervisors concerned.

**Guideline 20 – Internal model users (Article 45(3) of the Directive)**

**In the case of using internal models, both to calculate only the group Solvency Capital Requirement under Article 230 of the Directive or group internal models under Article 231 of the Directive, the group should indicate the related undertakings within the scope of the group which do not use the internal model for the calculation of their Solvency Capital Requirement and the underlying reasons for that in the group ORSA report.**

1.132. The description of differences between the risk profile of the group and the group SCR calculated by the group internal model, and demonstration of the awareness of that fact from group perspective, are similar to those required at individual level.

1.133. The group ORSA specifically includes the assessment of whether the risk profiles of the entities whose SCR is not calculated by the group model are reflected adequately in the group SCR.

- 1.134. The relation between the internal model used for the calculation of group solvency and the group ORSA, depends on the scope of this internal model. The following special situations need to be considered:
- a) some related undertakings are excluded from the scope of the internal model for the calculation of group solvency;
  - b) some related undertakings are included in the scope of the internal model for the calculation of group solvency, but their Solvency Capital Requirement is not calculated with this internal model.
- 1.135. In the first case some undertakings might be excluded from the scope of the group internal model. The scope of the model is covered by the approval process of the model itself. In this case, the group ORSA contains certain information on the non-modelled part of the group:
- a) an assessment of the non-modelled part of the group;
  - b) the impact of the non-modelled part on the group solvency position;
  - c) the relationship with the modelled part.
- 1.136. The group ORSA addresses all issues which are not included in the scope of the model but which have an impact on the group financial position.
- 1.137. In the second case the group ORSA includes the assessment of:
- a) deviations which are a consequence of using a standard formula or another model (different from the group internal model) based on different assumptions from the group internal model;
  - b) possible interactions between entities whose SCR is calculated by the group model and entities whose SCR is calculated by the standard formula (those interactions are expected to be taken into account in calculations of SCR of entities using the group internal model);
  - c) whether the risk profiles of the entities whose SCR is not calculated by the group model are nevertheless reflected adequately in the group SCR.
- 1.138. The appropriateness of the standard formula or another model for the individual level is also addressed in the group ORSA. Additionally, the group ORSA assesses the rationale for not using the group model to calculate the solo SCR of every undertaking that is part of the group.
- 1.139. When an internal model is used, certain issues which are negligible from the group perspective can be significant at the individual level. Therefore, the group ORSA should pay a special attention to such a situation. Material risks which are not properly addressed in the standard formula at the group level are in principle covered by the group internal model, which calculates capital requirements for the group.

**Guideline 21 – 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 the transferability and fungibility of capital.**

1.140. 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.

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