

Final Report

on

Public Consultation No. 14/016 on

Guidelines on supervisory review

process

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1. Executive summary

Introduction

According to Article 16 of Regulation (EU) No 1094/2010 (EIOPA Regulation) EIOPA may issue guidelines addressed to National Competent Authorities (NCAs) or financial institutions.

According to Article 16 of the EIOPA Regulation, EIOPA shall, where appropriate, conduct open public consultations and analyse the potential costs and benefits. In addition, EIOPA shall request the opinion of the Insurance and Reinsurance Stakeholder Group (IRSG) referred to in Article 37 of the EIOPA Regulation.

EIOPA has developed guidelines on supervisory review process to identify the manner in which a risk-based, prospective and proportionate approach to supervision may be achieved within the supervisory review process.

As a result of the above, on 2 June 2014 EIOPA launched a Public Consultation on the draft guidelines on the supervisory review process. The Consultation Paper is also published on EIOPA's website¹.

These guidelines were issued to NCAs to:

- Identify the manner in which a risk-based, prospective and proportionate approach to supervision may be achieved within the supervisory review process;
- Attain consistent outcomes through the convergence of supervisory processes and practices within the supervisory review process, whilst ensuring sufficient flexibility for national supervisory authorities to be able to appropriately adapt their actions on a case-by-case basis, taking into account the specificities of the insurance and reinsurance undertakings and groups involved, their own markets and other supervisory priorities.

Content

This Final Report includes the feedback statement to the consultation paper (EIOPA-CP-14/016) and the Guidelines. The Impact Assessment and cost and benefit analysis, and the Resolution of comments are published on EIOPA'S website².

^{1 2} <https://eiopa.europa.eu/consultations/consultation-papers/2014-closed-consultations/june-2014/public-consultation-on-the-set-1-of-the-solvency-ii-guidelines/index.html>

Next steps

In accordance with Article 16 of the EIOPA Regulation, within 2 months of the issuance of these guidelines, each competent authority shall confirm if it complies or intends to comply with these guidelines. In the event that a competent authority does not comply or does not intend to comply, it shall inform EIOPA, stating the reasons for non-compliance.

EIOPA will publish the fact that a competent authority does not comply or does not intend to comply with these guidelines. The reasons for non-compliance may also be decided on a case-by-case basis to be published by EIOPA. The competent authority will receive advanced notice of such publication.

EIOPA will, in its annual report, inform the European Parliament, the Council and the European Commission of the guidelines issued, stating which competent authority has not complied with them, and outlining how EIOPA intends to ensure that concerned competent authorities follow its guidelines in the future.

2. Feedback statement

Introduction

EIOPA would like to thank the Insurance and Reinsurance Stakeholder Group (IRSG) and all the participants to the Public Consultation for their comments on the draft guidelines. The responses received have provided important guidance to EIOPA in preparing a final version of these guidelines. All of the comments made were given careful consideration by EIOPA. A summary of the main comments received and EIOPA's response to them can be found in the sections below. The full list of all the comments provided and EIOPA's responses to them is published on EIOPA's website.

General comments

1. Risk assessment framework (RAF) – GL 15,16,17,18

- a) The GLs state that national supervisory authorities (NSA) should classify the impact and risk of undertakings/groups in 4 categories.

Stakeholders suggested that the paragraphs on the classification into 4 categories (both for impact and risk) should be moved to Explanatory Text, since it imposes a classification system that might not be compatible with national law. Furthermore, it should be left for the discretion of the NSA to decide what sort of classification system would work best for their respective undertakings.

- b) EIOPA disagrees. The scope of the SRP Guidelines is to promote supervisory convergence; that is particularly important with regard to the impact and risk classification. This is even more important at group level.

The impact and risk classification address internal processes of the NSA and it not related to national laws.

2. RAF: impact/risk classification for all undertakings/groups – GL 15,16, 17, 18 and 19

- a) The Explanatory Text 2.57 for GL 15 and ET 2.67 for GL 16 state that the approach of NSA to measuring impact is to be applied to all undertakings/groups regardless of their type and size.

Stakeholders suggested to move the first sentence from the ET to the guideline.

- b) EIOPA agrees and Guideline 15 was amended to clarify that the assessment should be applied to all undertaking, and consequently similar changes were also made to Guidelines 16, 17, 18, and 19 to be consistent.

3. RAF: Notification of the frequency of regulatory supervisory report (RSR) – GL 23

- a) Guideline 23, par. 1.56 states: "The national supervisory authority should notify insurance (re) undertakings of the frequency of the RSR required ... at least 3 months in advance of the insurance (re) undertakings' financial year end".

Stakeholders suggested that the notification from the supervisor of the frequency of RSR should be made earlier than three months in advance of the undertakings financial year end. In order to give the undertaking sufficient time a notification of at least five months in advance is more appropriate.

- b) EIOPA understands the concerns however it is challenging to notify 5 month in advance of the financial year end (i.e. in July) considering the time that NSA will receive the Solvency II reporting. Noting this comment EIOPA has amended the Guideline as follows: "as soon as possible and not later than three months in advance".

4. RAF: Detailed Review: request for addition information – GL 26

- a) According to the Guidelines NSAs should, where appropriate, evaluate for additional information from the undertaking.

Stakeholders suggested that NSAs should always state the reasons for asking for additional information and this should be clearly stated in this guideline (at least in the Explanatory Text).

- b) EIOPA agrees that additional information requests should be justified and appropriate, and therefore based on an evaluation of whether such information is necessary. This should be appropriately documented as provided in Guidelines 8, 9 and 27. EIOPA does not see the need to change the Guidelines. Supervisory authorities have the power to require any information deemed necessary for the purposes of supervision.

5. Reference to the college work plan – GL 21

- a) Stakeholders suggested to add the list of elements of the college work plan provided in GL 21 to GL 12 of Guidelines on operational functioning of colleges and then make a cross reference in the those guidelines to the SRP guidelines.
- b) EIOPA explained that the list included in GL 21 should not be moved to GL 12 of the Guidelines on operational functioning of colleges of supervisors. GL 12 provides a general rule regarding development of the college work plan. However, particular guidelines provide for elements which should be included or taken into account in the college work plan.

6. Identification of entities responsible for compliance – GL 35

- a) Stakeholders asked for clarification with regards to last two paragraphs of the explanatory text, as it was not evident why the group supervisor needs to identify the appropriate legal entities that are responsible for compliance.
- b) EIOPA explained that supervisory authorities need to identify the relevant legal entities as, depending of the problem identified, the solution may need to be implemented at a group level (at the level of the parent) or at individual level. Last to paragraphs of the explanatory text of GL 35 were merged in order to clarify the purpose of identifying the appropriate legal entity.

General nature of the participants to the Public Consultation

EIOPA received comments from the Insurance and Reinsurance Stakeholder Group (IRSG) and six responses from other stakeholders to the public consultation. All the comments received have been published on EIOPA's website.

Respondents can be classified into two main categories: European trade, insurance, or actuarial associations; and national insurance or actuarial associations.

IRSG opinion

The IRSG response to the draft Guideline on the supervisory review process can be consulted on EIOPA's website³.

Comments on the Impact Assessment

A separate Consultation Paper was prepared covering the Impact Assessment for the Set 1 of EIOPA Solvency II Guidelines. Where the need for reviewing the Impact Assessment has arisen following comments on the guidelines, the Impact Assessment Report has been revised accordingly.

The revised Impact Assessment on the Set 1 of EIOPA Solvency II Guidelines can be consulted on EIOPA's website.

³ <https://eiopa.europa.eu/about-eiopa/organisation/stakeholder-groups/sgs-opinion-feedback/index.html>

Annex: Guidelines

1. Guidelines on supervisory review process

Introduction

- 1.1. According to Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (hereafter Solvency II Directive)⁴ and Article 16 of Regulation (EU) 1094/2010 of 24 November 2010 (hereafter EIOPA Regulation)⁵ EIOPA has developed guidelines on supervisory review process. These guidelines relate to Article 36 of the Solvency II Directive. Further relevant provisions are in particular Articles 27, 29, 34, 71, 213(2), 248, 249, 250 and 255 of the Solvency II Directive.
- 1.2. These Guidelines aim at identifying the manner in which a risk-based, prospective and proportionate approach to supervision may be achieved within the supervisory review process.
- 1.3. The supervisory review process refers to all the activities conducted by the supervisory authority in order to comply with its obligations arising under Article 36 of the Solvency II Directive that includes the evaluation of strategies, processes and reporting procedures in insurance and reinsurance undertakings which they have established in order to comply with Solvency II.
- 1.4. Therefore the objective of these Guidelines is to attain consistent outcomes through the convergence of supervisory processes and practices within the supervisory review process, whilst ensuring sufficient flexibility for national supervisory authorities to be able to appropriately adapt their actions on a case-by-case basis, taking into account the specificities of the insurance and reinsurance undertakings and groups involved, their own markets and other supervisory priorities.
- 1.5. These Guidelines are summarised in the diagram presented in the explanatory text of Guideline 1 and in the document "SRP Guidelines Diagram" published together with these Guidelines⁶.
- 1.6. For the supervisory review process of insurance groups where there is a college of supervisors in place, these Guidelines have taken into consideration the Guidelines on operational functioning of colleges⁷, the college's specific coordination arrangements and any other processes or plans agreed by the college of supervisors.
- 1.7. These Guidelines are not intended to restrict the group supervisor and the college of supervisors from additional communications or information sharing arrangements that are consistent with the Solvency II Directive, including the

⁴ OJ L 335, 17.12.2009, p. 1155

⁵ OJ L 331, 15.12.2010, p. 48–83

⁶ <https://eiopa.europa.eu/publications/eiopa-guidelines/index.html>

⁷ <https://eiopa.europa.eu/publications/eiopa-guidelines/index.html>

proportionate and risk-based approach of the supervisory review process in line with Article 29 of the Solvency II Directive.

- 1.8. National supervisory authorities that are part of a college will have ongoing responsibilities to communicate and involve the college in the supervisory review process, particularly when taking supervisory measures, or when insurance and reinsurance undertakings or groups enter into financial difficulties. Where appropriate, examples with cross references to various requirements and Guidelines are provided in the explanatory text. The Guidelines are addressed to supervisory authorities under Solvency II.
- 1.9. These Guidelines apply to the supervisory review process performed by national supervisory authorities regarding all insurance and reinsurance undertakings, both individual undertakings subject to the Solvency II Directive and insurance and reinsurance groups subject to group supervision under Article 213(2) (hereinafter insurance groups). Regarding the application of the Guidelines to the supervisory review process of the insurance groups the following needs to be considered⁸:
 - Guidelines 10, 16, 18, 21, 35, 37 and 40 are group-specific and are only applicable to the group supervisor, with the exception of Guidelines 37 and 40 which can apply to both group supervisor and individual national supervisory authority;
 - Guidelines 15 and 17 apply only to supervisory authorities for individual insurance and reinsurance undertakings and don't apply to supervisory authorities in their role as group supervisor. The group supervisor should comply with the relevant group-specific Guidelines 16 and 18;
 - Guidelines 5, 6, 7, 11, 13, 19, 21, 23, 25, 28, 29, 32, 37, 39 and 40 also include provisions that apply only if the insurance group has a college that is established under Article 248(2) of the Solvency II Directive. These provisions may apply to both the group supervisor and national supervisory authorities of the individual insurance and reinsurance undertakings within the college, with the exception of Guideline 21, which only applies to the group supervisor.
- 1.10. Where there is group supervision established at national level pursuant to Article 216 of the Solvency II Directive, these Guidelines apply *mutatis mutandis* to both: group supervision carried out at national level under Article 216 of the Solvency II Directive and group supervision carried out under Article 213(2) of the Solvency II Directive.
- 1.11. For the purpose of these Guidelines the following definitions apply:
 - When applying these Guidelines to group supervisors:
 - the term "national supervisory authority" refers to the supervisory authority responsible for group supervision pursuant to Article 247(1) of the Solvency II Directive;

⁸ Please find a table of the Guidelines that apply to individual and to group or to both in the Appendix published with the Explanatory text of the Public Consultation.

- When applying these Guidelines to group supervisors, the term “insurance and reinsurance undertakings” refers to “insurance groups” (excluding guidelines 12, 19, 33, 36 and 38, which refer to both groups and the undertakings within the group);
- “Group supervisor” refers to the supervisory authority that fulfils the criteria set out in Article 247(1) of the Solvency II Directive;
- “College” refers to the college of supervisors as defined in Article 212(1)(e) of the Solvency II Directive;
- “Members” and “participants” refer to members and participants as defined in the Guidelines on operational functioning of colleges;
- “On-site inspection” refers to an organised assessment or formal evaluation exercise, performed at the location of the supervised undertaking, or the service providers to whom the supervised undertaking has outsourced functions, which leads to the issuing of a document communicated to the undertaking.

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

1.13. The Guidelines shall apply from 1 January 2016.

Section I - Overall supervisory review process (SRP)

Guideline 1 – Conducting the supervisory review process

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

Guideline 2 – Consistency of the supervisory review process

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

Guideline 3 – Proportionality in the supervisory review process

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

Guideline 4 – Supervisory judgement in the supervisory review process

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

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

1.18. The national supervisory authority should ensure that there is an appropriate level of communication between the personnel of the national supervisory authority and the insurance and reinsurance undertaking throughout the entire supervisory review process in order to facilitate effective supervision.

1.19. If there is a college, the communication with the supervised undertakings should be coordinated as described in Guideline 15 of the Guidelines on operational functioning of colleges.

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

1.20. The national supervisory authority should undertake an appropriate level of communication and involvement with other relevant national supervisory authorities throughout the entire supervisory review process.

1.21. Communication with third-country supervisory authorities should be in line with any relevant memoranda of understanding in place.

1.22. If there is a college, communication should follow the relevant requirements and guidelines.

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

1.23. The national supervisory authority should take into account market wide analyses throughout the supervisory review process.

1.24. If there is a college the supervisory authority should take into account the outcome of any relevant market-wide analysis that has been shared within the college.

Guideline 8 – Documentation

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

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

1.26. The national supervisory authority should have an adequate governance mechanism in place to properly monitor the conduct of the supervisory review process.

1.27. The national supervisory authority should regularly review their method of implementation of the supervisory review process to ensure its on-going appropriateness.

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

1.28. The group supervisor should apply the supervisory review process consistently with the scope and cases of application of group supervision described in Title III, Chapter I of the Solvency II Directive, taking into account the type of the ultimate parent undertaking of the insurance group, the geographical location of its head office (EEA or a third country), the equivalence status of the third country, if any, and any financial conglomerate aspects.

1.29. The group supervisor should consider in the supervisory review process all relevant entities within the insurance group including regulated and non-regulated as well as EEA and non-EEA entities.

1.30. The group supervisor should focus on the group-specific issues, including:

- a) intra-group transactions, complexity and interconnectedness of the insurance group;
- b) the group risk profile including any diversification effects, risk concentrations and risk transfer across the insurance group;

- c) any other risks from a group-wide perspective, including those that arise at group level, such as risks from non-insurance entities;
- d) aspects of the group governance and group strategy including any conflict or any potential conflict of interests;
- e) aspects of the group-wide risk management, including any centralised risk management functions; and
- f) the group's management of its group capital, including transferability and allocation within the insurance group.

Section II- Input to the supervisory review process

Guideline 11 – Input to the supervisory review process

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

Section III - Risk assessment framework

Guideline 12 – Risk assessment framework structure and use

- 1.32. The national supervisory authority should use a risk assessment framework to identify and assess current and future risks that insurance and reinsurance undertakings face or may face including the insurance and reinsurance undertaking's capacity to identify, measure, monitor, manage and report on those risks.
- 1.33. The national supervisory authority should use this approach for the purposes of:

- a) conducting the effective supervision of insurance and reinsurance undertakings;
- b) prioritising supervisory activities;
- c) setting the frequency of the regular supervisory reporting;
- d) determining the scope, depth and frequency of off-site analysis and on-site inspections or any other matters needed for the supervision of insurance and reinsurance undertakings.

Guideline 13 – Scope of the risk assessment framework

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

Guideline 14 – Assessment of information

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

Guideline 15 – Determination of undertaking impact classification

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

Guideline 16 – Determination of impact classification for groups

- 1.38. The group supervisor should include in the group risk assessment framework an impact classification for all insurance groups.

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

Guideline 17 – Determination of undertaking risk classification

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

Guideline 18 – Determination of the risk classification for insurance group

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

able to withstand the risks materialising, to 'Risk class 4' that corresponds to being least able to withstand the risks materialising.

Guideline 19 – Determination of outcome of the risk assessment framework

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

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

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

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

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

Guideline 22 – Governance of the supervisory plan

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

Guideline 23 – Notification of the frequency of regular supervisory report

1.56. The national supervisory authority should notify insurance and reinsurance undertakings of the frequency of the regular supervisory report required, be it annually, every two or three years as well as any subsequent change to that, as soon as possible and no later than three months in advance of the insurance and reinsurance undertakings' financial year end.

1.57. The decision on frequency should, at least, take the outcome of the risk assessment framework, other supervisory information and the exercise of supervisory judgement into consideration.

1.58. If there is a college, the supervisory authorities should communicate changes to the regular supervisory report frequency to the group supervisor before notifying the insurance and reinsurance undertakings if appropriate.

Guideline 24 – Update of the risk assessment framework

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

Section IV - Detailed Review

Guideline 25 – Detailed review activities

1.60. The national supervisory authority should carry out detailed review activities, whether off-site analysis or on-site inspections, based on the supervisory plan, taking into account all relevant information and focusing on the areas of risk as identified in the risk assessment framework.

1.61. If there is a college the supervisory authorities should also refer to the college work plan when carrying out the detailed review activities with regard to any participation of other national supervisory authorities in line with the Guidelines on operational functioning of colleges.

Guideline 26 – Request for additional information during the detailed review

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

Guideline 27 – Detailed review conclusions

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

Guideline 28 – Detailed off-site analyses

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

Guideline 29 – On-site inspections

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

Guideline 30 – Governance of on-site inspections

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

Guideline 31 – Process to follow for on-site inspections

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

Guideline 32 – Written conclusions of on-site inspections

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

Section V - Supervisory Measures

Guideline 33 – Identification of matters leading to the supervisory measures

- 1.70. The national supervisory authority should, based on the conclusions of the detailed review, identify any weaknesses and actual or potential deficiencies or

non-compliances with requirements that could lead them to imposing supervisory measures.

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

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

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

1.72. The group supervisor identifies and assesses any weaknesses and actual or potential deficiencies or non-compliance from a group-wide perspective, taking into account the specificities of the insurance group structure and business and the interconnectedness of the insurance and reinsurance group.

1.73. The group supervisor should consider whether the findings on weaknesses and actual or potential deficiencies or non-compliance from a group-wide perspective relate to the insurance group as a whole or to some specific insurance and reinsurance undertakings.

Guideline 36 – Different measures for varying situations

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

Guideline 37 – Decision upon measures at group or individual level

1.75. The national supervisory authorities responsible for the supervision of the relevant insurance and reinsurance undertakings or the group supervisor, in case of measures related to the insurance group as a whole, should take the necessary measures against the appropriate undertaking based on their analysis of the findings on the weaknesses, deficiencies or non-compliances.

1.76. Where measures are taken both at group and individual levels, the group supervisor and the supervisory authorities should coordinate measures, where appropriate, to enhance the effectiveness of the measures.

Guideline 38 – Governance over exercise of measures

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

Guideline 39 – Notification of measures

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

Guideline 40 – Communication in the college

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

Guideline 41 – Monitoring implementation by insurance and reinsurance undertakings

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

Guideline 42 – Review of supervisory measures

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

Compliance and Reporting Rules

- 1.83. This document contains Guidelines issued under Article 16 of the EIOPA Regulation. In accordance with Article 16(3) of the EIOPA Regulation, Competent Authorities and financial institutions shall make every effort to comply with guidelines and recommendations.
- 1.84. Competent authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or supervisory framework in an appropriate manner.
- 1.85. Competent authorities shall confirm to EIOPA whether they comply or intend to comply with these Guidelines, with reasons for non-compliance, within two months after the issuance of the translated versions.
- 1.86. In the absence of a response by this deadline, competent authorities will be considered as non-compliant to the reporting and reported as such.

Final Provision on Reviews

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

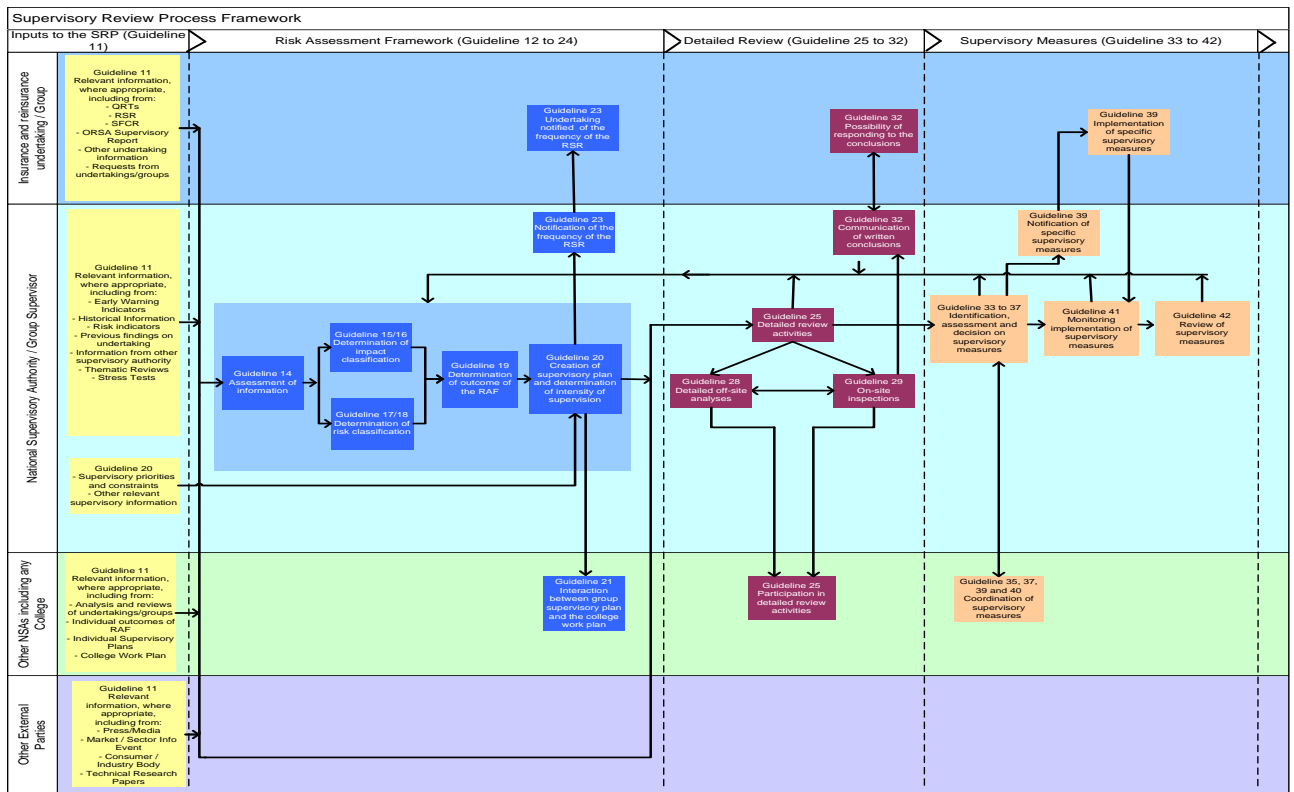
2. Explanatory text

Section I - Overall supervisory review process (SRP)

Guideline 1 – Conducting the supervisory review process

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

- 2.1. The diagram below (also published in the document “SRP Guidelines Diagram”), hereafter referred to as “diagram”, aims to pictorially represent the principal stages which a supervisory authority will include in the Business as Usual work of supervising insurance and reinsurance undertakings. Therefore the lines and arrows which connect the boxes represent the tendency for an order of actions under Business as Usual, but they cannot represent all possibilities or orders of action; they are designed to suggest possible interconnections and when these might occur.
- 2.2. There are three significant stages within the overall supervisory review process which are examined in detail within these guidelines, i.e. risk assessment framework, the detailed review process and supervisory measures.
- 2.3. The risk assessment framework focuses on the conduct of both an impact and a risk assessment of each undertaking, at least upon the receipt of regular reporting, in order to develop or update the appropriate plan for the supervision of those insurance and reinsurance undertakings. This supervisory plan will identify the intensity of supervision to be applied by the supervisory authority in terms of, for example, types, depth and regularity of engagements with the undertaking. The risk assessment framework will also identify the frequency of reporting of the regular supervisory report (RSR) to be provided by the undertaking.
- 2.4. The Detailed Review Process focuses on the review and analysis to be conducted for each undertaking, as determined within the supervisory plan. It deals with the main activities and related issues of that review and analysis including the conduct of both off-site analysis and on-site inspections.
- 2.5. Supervisory Measures focus on the process of resolving any weaknesses or actual or potential deficiencies as identified during any stage of the supervisory review process.



2.6. The supervisory review process, whilst represented as a planned and continuous process within the diagram, is to be seen as an iterative and flexible process. At any point in the process, depending on the particular situation, it may be necessary, for example, for the supervisory authority to:

- revert to an earlier stage in the process where, for example, new information is received during the review stage which may affect either the risk or impact categorisation or the supervisory plan,
- skip one or more stages in the process where, for example, a material weakness is identified at an early stage in the process and it is necessary to move directly to supervisory measures, or
- spend more time or more resources on any stage than originally provided for within the supervisory plan.

2.7. Whilst ad-hoc requests received from insurance and reinsurance undertakings, for example, requests for approval of an internal model, ancillary own funds, undertaking-specific parameters, various types of applications for authorisation or fit and proper or outsourcing notifications, or centralised risk management applications for insurance groups, do not themselves form part of, or trigger, a regular supervisory review process. They are likely to be considered as inputs to the process in the same way as other relevant information.

Guideline 2 – Consistency of the supervisory review process

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

- 2.8. Different teams or individual supervisors within the supervisory authority dealing with similar situations or issues for various insurance and reinsurance undertakings need to come to similar outcomes. This may include, for example, some form of consistency checking of the supervisory approach, the activity and the application of supervisory measures for insurance and reinsurance undertakings of similar characteristics. This is essential to ensure a level playing field between insurance and reinsurance undertakings.
- 2.9. However, this does not necessarily mean that outcomes of the supervisory review process will be the same, but are expected to be comparable between insurance and reinsurance undertakings as the risks and challenges faced by each undertaking are specific. Notwithstanding this fact it is necessary that supervisory authorities have internal procedures in place that ensure consistency between outcomes for a given type of situation or issue, for instance through regular exchanges between or rotation of supervisory teams or the development of written procedures.
- 2.10. Consistency over time is also aimed for, but it needs to be acknowledged that market conditions, legal requirements and processes within the supervisor authorities can vary, which may affect the outcome of the supervisory review process in different time periods.

Guideline 3 – Proportionality in the supervisory review process

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

- 2.11. It is important that the supervisory authority adopts the principle of proportionality throughout, and at each stage of, the supervisory review process. This means that they must take the nature, scale and complexity of risks arising from the insurance and reinsurance undertakings business in to account when reviewing and evaluating the strategies, processes and reporting procedures of the undertaking established to comply with Solvency II.
- 2.12. This would include, for example, when conducting the risk assessment framework process applying proportionality when setting the frequency of submission of the RSR, deciding on the supervisory activity plan and conducting activities forming part of that plan. In addition, any supervisory measures decided upon have to be proportional to the nature, scale and complexity of the activities and risks of the undertaking.

Guideline 4 – Supervisory judgement in the supervisory review process

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

- 2.13. At all stages of the supervisory review process the supervisory authorities may need to exercise supervisory judgement and will need to remain flexible and responsive to the situation or circumstances that arise keeping in mind the

main objectives of supervision, and hence of the supervisory review process, and considering other priorities of individual national supervisory authorities, for example in a given year a national supervisory authority may for strategic reasons decide to conduct themed reviews of a particular area within insurance and reinsurance undertakings.

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

The national supervisory authority should ensure that there is an appropriate level of communication between the personnel of the national supervisory authority and the insurance and reinsurance undertaking throughout the entire supervisory review process in order to facilitate effective supervision.

If there is a college, the communication with the supervised undertakings should be coordinated as described in Guideline 15 of the Guidelines on operational functioning of colleges.

2.14. At any point in the supervisory review process there may be a need for interaction or communication between the supervisory authority and the undertaking. This could include requests for additional information or other types of communications which are necessary for the purpose of supervision.

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

The national supervisory authority should undertake an appropriate level of communication and involvement with other relevant national supervisory authorities throughout the entire supervisory review process.

Communication with third-country supervisory authorities should be in line with any relevant memoranda of understanding in place.

If there is a college, communication should follow the relevant requirements and guidelines.

2.15. Effective communication is the responsibility of both the group supervisor and the supervisors of the individual insurance and reinsurance undertakings that are part of the insurance group.

2.16. The group supervisor and the supervisory authorities, where they are part of a college, will also need to comply with the Solvency II provisions on communication with other supervisory authorities under Articles 248 to 266 of the Solvency II Directive together with:

- a) Article 357 of the Implementing Measures;
- b) Guidelines on operational functioning of colleges;
- c) Guidelines on exchange of information on a systematic basis within colleges;
- d) the coordination arrangements agreed by the college.

- 2.17. The communication between and involvement of supervisory authorities that form part of the supervisory review process needs to be guided by the principles of risk-based supervision and proportionality. For example, the extent of information exchanged will depend on the materiality and significance of the undertaking within the insurance group and the risks the undertaking is exposed to. Communication has to be exercised in a way that enhances supervision and does not result in disproportionate and excessive administrative burden.
- 2.18. Examples of supervisory review process communication and involvement that colleges may decide upon and include in the coordination arrangement could be:
- a) providing regular updates on supervisory review process and the outcome of the risk assessment framework, both at group and individual level, followed by the supervisory plans;
 - b) triggers where information is regularly shared (for example, main conclusions from analysis and inspections, both at group and individual levels, to be shared within the college);
 - c) supervisory authorities may decide to set up specific communication between certain members and participants of the college, for example, between the group supervisor and any supervisors performing group supervision at the subgroup level identified under Articles 216 or 217 of the Solvency II Directive;
 - d) involving relevant members of the college in the detailed review activities, for example, joint on-site examinations.
- 2.19. If there is not a college, supervisors may need to communicate with other supervisory authorities and in doing so they will have to adhere to this guideline, for example:
- a) a supervisor of an undertaking and a host supervisor of a branch of that undertaking (for example, in line with Article 30 of the Solvency II Directive);
 - b) supervisors of branches of a non-EEA insurance undertaking or insurance group operating in the EEA;
 - c) third-country supervisory authorities or related insurance and reinsurance undertakings;
 - d) supervisory authorities of related non-insurance regulated entities.

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

The national supervisory authority should take into account market wide analyses throughout the supervisory review process.

If there is a college the supervisory authority should take into account the outcome of any relevant market-wide analysis that has been shared within the college.

- 2.20. Market wide analysis is an analysis of risks the insurance and reinsurance undertakings face in the market as a whole, or in relevant parts of it.
- 2.21. This analysis, feeds into the supervisory review process for individual insurance and reinsurance undertakings in terms of how identified market wide risks may impact the individual situation of insurance and reinsurance undertakings. It requires an assessment of both the market and relevant characteristics of the macroeconomic environment to identify possible future events and changes in economic conditions that may impact the financial standing of insurance and reinsurance undertakings, or, to ensure the provision of timely information about market wide risks to be taken into account.
- 2.22. The sharing of market wide risks analysis with supervisory authorities of other Member States helps to adequately address cross-border systemic risks.
- 2.23. One element of market wide analysis which may be particularly relevant is peer group analysis. This is encouraged in order to assist supervisory authorities in comparing and contrasting risks of one undertaking with the risks of similar insurance and reinsurance undertakings.
- 2.24. The market wide risks analysis can be considered at any point throughout the supervisory review process.
- 2.25. The following are some examples of the role of colleges in market-wide analysis carried out at group level:
 - a) group-wide analysis of data on exposures to specific types of products;
 - b) group-wide analysis of data on exposures by country, particularly those without an investment grade;
 - c) group-wide application of tools such as stress tests to assess the resilience of the insurance group to various forward-looking adverse macroeconomic scenarios;
 - d) members and participants of the college sharing views on what adverse macroeconomic scenarios have to be considered.

Guideline 8 – Documentation

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

- 2.26. The supervisory review process generates extensive information including, for example; electronic and paper files, input documents, working papers, analysis, internal reports and correspondence. Supervisors are expected to have adequate systems and procedures in place to retain documentation supporting the conclusions communicated to the insurance and reinsurance undertakings, assuring its prompt access to authorised staff as needed.
- 2.27. This information is confidential unless otherwise stated in national or EU law.

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

The national supervisory authority should have an adequate governance mechanism in place to properly monitor the conduct of the supervisory review process.

The national supervisory authority should regularly review their method of implementation of the supervisory review process to ensure its on-going appropriateness.

- 2.28. Supervisory authorities need to have an appropriate governance mechanism in place to monitor the conduct of all the stages of the supervisory review process on an on-going basis to ensure that the supervisory review process remains fully in line with the developments of its market and the risks faced by insurance and reinsurance undertakings.
- 2.29. It is essential to ensure that the method of implementation of the supervisory review process, e.g. frequency, scope, tools and components of the supervisory review process, is regularly reviewed internally, in order to ensure that the framework used by the supervisory authority is still relevant, appropriate, consistent and applied in a proportionate and objective manner.
- 2.30. The frequency of such an internal review is determined by the supervisory authority.
- 2.31. Connected with the task of monitoring the supervisory review process, supervisory authorities are expected to be in a position to identify, for internal purposes, all on-going and planned detailed reviews.
- 2.32. If there is a college established under Article 248(2) of the Solvency II Directive, their involvement will have to be reviewed as part of the review set out in Guideline 12 of the Guidelines on operational functioning of colleges.

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

The group supervisor should apply the supervisory review process consistently with the scope and cases of application of group supervision described in Title III, Chapter I of the Solvency II Directive taking into account the type of an ultimate parent undertaking of the insurance group, the geographical location of its head office (EEA or a third country), the equivalence status of the third country, if any, and any financial conglomerate aspects.

The group supervisor should consider in the supervisory review process all relevant entities within the insurance group including regulated and non-regulated as well as EEA and non-EEA entities.

The group supervisor should focus on the group-specific issues, including:

- a) intra-group transactions, complexity and interconnectedness of the insurance group;
- b) the group risk profile including any diversification effects, risk concentrations and risk transfer across the insurance group;
- c) any other risks from a group-wide perspective, including those that arise at the group level, such as risks from non-insurance entities;
- d) aspects of the group governance and group strategy including any conflict or any potential conflict of interests;
- e) aspects of the group-wide risk management, including any centralised risk management functions; and
- f) the group's management of its group capital, including transferability and allocation within the insurance group.

- 2.33. Where an individual insurance or reinsurance undertaking or an EEA group is part of a group under Article 213(2)(c) of the Solvency II Directive and the ultimate parent undertaking has its head office in a jurisdiction that is equivalent under Article 260 of the Solvency II Directive, the EEA supervisory authorities are expected to cooperate with the supervisor of the third country ultimate parent undertaking as part of their individual and group supervisory review process, in line with Article 261 of the Solvency II Directive.
- 2.34. Where an individual insurance or reinsurance undertaking or an EEA group is part of an insurance group under Article 213(2)(c) of the Solvency II Directive and the ultimate parent undertaking has its head office in a jurisdiction that is non-equivalent under Article 260 of the Solvency II Directive, the supervisory authorities of the EEA insurance and reinsurance undertakings within the insurance group may use the supervisory review process as part of their supervision of the group, in line with Article 262 of the Solvency II Directive.
- 2.35. Where an undertaking has been excluded from group supervision under Article 214(2) of the Solvency II Directive, the group supervisor considers the impact of the undertaking to the insurance group, taking into account any material

risks coming into the insurance group as a result of any investment or transactions with the undertaking.

- 2.36. As regards insurance groups referred to in Article 213(2)(d) of the Solvency II Directive (headed by a mixed-activity insurance holding company), the supervisory authorities responsible for the supervision may use the relevant parts of the supervisory review process regarding intra-group transactions concluded by insurance or reinsurance undertakings with the mixed-activity insurance holding company and its related undertakings .
- 2.37. Where the insurance and reinsurance undertakings within a group are predominantly located in the member state of the group supervisor, and the group supervisor considers it appropriate, taking into account specificities of the insurance group, the group supervisor may conduct stages of the group supervisory review process in conjunction with the individual supervisory review processes for which they are responsible.
- 2.38. In case of non-regulated entities, such as insurance holding companies, and third-country undertakings in the scope of the insurance group, the group supervisor assesses information referring to them only for the purpose of the group supervision, without exercising a supervisory role on them.
- 2.39. The group supervisor reviews the group's control over the development and interaction of the various areas of business in which the insurance group operates and the risks related to them, particularly, in case of concentration in the business profile. The group supervisor pays attention to the insurance group business model and strategy that could result in certain entities being concentrated in certain areas, products or markets as a result of the insurance group business strategy.
- 2.40. A balanced view has to be taken when assessing insurance group's business concentration since, on one hand, concentration may increase vulnerability to specific sectoral or regional business cycles, and, on the other hand, it may generate expertise and local knowledge that can result in higher quality portfolio despite the degree of concentration. The group supervisor may also review the group's policies relating to restructuring of the insurance and group.
- 2.41. In the assessment of risks arising from intra-group transactions and risk concentrations:
 - a) special attention is paid to the possibility of a contagion risk if the counterparty belongs to the same insurance group;
 - b) special attention is paid to the possibility of a conflict of interests, if the counterparty does not belong to the same insurance group or is linked to an undertaking in the insurance group by some other relationship.
- 2.42. The group supervisor also plays an essential role in coordinating supervisory activities, such as the review of risk concentration and intra-group transactions, which have to be carried out at both individual and group levels.

- 2.43. Risk management and internal governance in a group context are issues of great importance since the group governance strategy needs to be adequate to cover all entities in the scope.
- 2.44. In particular, when the risk management system or control functions are centralised at the group level, the group supervisor assesses the adequacy of the centralised system for all entities that are covered. When the risk management system or control functions are decentralised, the group supervisor assesses the adequacy of the integration of all individual elements into the overall group risk management or governance.
- 2.45. Information gained from the supervisory review process can also assist the group supervisor in setting the group-specific thresholds, as well as specific types of transactions and risks for intra-group transactions and risk concentration, reported in accordance with Articles 244 and 245 of the Solvency II Directive.
- 2.46. In relation to the group's capital management, the group's absolute levels of capital, its ability to pay its external obligations and the group's ability to access external capital may be relevant, as well as the individual insurance and reinsurance undertakings' ability to access capital within the insurance group when needed.

Section II - Inputs to the supervisory review process

Guideline 11 – Inputs to the supervisory review process

Throughout the supervisory review process the national supervisory authority should, where appropriate, consider relevant information arising from different sources, including from:

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

Section III - Risk assessment framework

Guideline 12 – Risk assessment framework structure and use

The national supervisory authority should use a risk assessment framework to identify and assess current and future risks that insurance and reinsurance undertakings face or may face including the insurance and reinsurance undertaking's capacity to identify, measure, monitor, manage and report on those risks.

The national supervisory authority should use this approach for the purposes of:

- a) conducting the effective supervision of insurance and reinsurance undertakings;
- b) prioritising supervisory activities;
- c) setting the frequency of the regular supervisory reporting;
- d) determining the scope, depth and frequency of off-site analysis and on-site inspections or any other matters needed for the supervision of insurance and reinsurance undertakings.

2.47. The identification and assessment by supervisory authorities of the risks that insurance and reinsurance undertakings face, underpins a risk-based, proactive and prospective approach to the work carried out by supervisory authorities throughout the supervisory review process. The Risk Assessment Framework sets out in a series of stages the guidelines for: the impact, risk identification and risk assessment of insurance and reinsurance undertakings, promotes the allocation of converged impact and risk classifications and outlines the approach to setting a risk-based supervisory plan.

Guideline 13 – Scope of the risk assessment framework

The national supervisory authority should apply a risk-based and forward-looking approach to supervision that is established in the following stages:

- a) assessment of information;
- b) determination of insurance and reinsurance undertaking impact classification;
- c) determination of insurance and reinsurance undertaking risk classification;
- d) determination of outcome of risk assessment framework;
- e) creation of supervisory plan and determination of intensity of supervision;
- f) in case of insurance groups, if there is a college established under Article 248(2) of the Solvency II Directive, contribution of aspects of the supervisory plan to the college work plan, where appropriate.

2.48. The stages referred to in this guideline are further explained in subsequent guidelines of this document.

2.49. The application of the risk assessment framework to an undertaking and its role within the broader supervisory review process includes:

- a) Ensuring a risk-based and prospective approach to supervision throughout the supervisory review process by informing: a risk-based setting of the supervisory plan, the frequency with which insurance and reinsurance undertakings must submit their RSR, the selection of supervisory activities and the decision to impose any supervisory measures.
- b) Providing important information about insurance and reinsurance undertakings that will assist with the selection and direction of supervisory resources and supervisory activities to insurance and reinsurance undertakings and areas within insurance and reinsurance undertakings that present the greatest risk. In particular, the risk assessment framework seeks to direct supervisory activities toward insurance and reinsurance undertakings presenting risks that could lead to non-compliance with the laws, regulations and administrative provisions adopted pursuant to Solvency II or an undertaking not being able to meet its obligations to policyholders and beneficiaries.

2.50. The assessment of future risks that the undertaking may face includes consideration of the effect of possible future events and changes in economic conditions on the financial standing of insurance and reinsurance undertakings.

2.51. The risk assessment framework at group level is intended to be used in a way that is similar to the risk assessment framework at the individual level. The group-level risk assessment takes into account the individual risk assessment framework but does not require the group supervisor to duplicate the assessment of the individual insurance and reinsurance undertakings, instead focusing on the group-level risks.

The Risk assessment framework stages

Stage 1. Assessment of Information

Guideline 14 – Assessment of information

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

- 2.52. The inputs to the risk assessment framework come from many sources including information such as regular reporting (for example the Solvency and Financial Conditions Report, the RSR, the ORSA report) or ad-hoc reporting, early warning indicators, results from stress tests, internal model changes, relevant information from other sources (for example the media, colleges, industry bodies, historical information), supervisory priorities and constraints, etc. Supervisory authorities are to carry out an assessment of the inbound information and assess potential risks to policyholders and beneficiaries together with the risk of an undertaking's non-compliance with Solvency II. Supervisory authorities may decide to rely on automated processes to assist with assessing the inbound information and making judgements within the risk areas, for example, validating data, identify deviations in standard ratios, and identifying changes in key risk indicators.
- 2.53. The assessment of information may also include some further supervisory activities such as discussions with the undertaking, requests for clarification from insurance and reinsurance undertakings, seeking the resubmission of information or meeting with insurance and reinsurance undertakings.
- 2.54. The necessary scope and depth of the high level assessment of information is to be determined by the supervisory authority and is subject to the principle of proportionality.
- 2.55. The group data and other group-level information will be an important source of information for the review of the financial and solvency position of the insurance group as a coherent economic entity. This information will be also important for the review of the effects of the third-country insurance and reinsurance undertakings and the non-insurance entities within the insurance group. Changes to the group solvency calculation, such as changes to internal models, can also be considered. When assessing the group data and other group-level information, the group supervisor considers, if there is a college, the need for further ad-hoc exchange of information needed in the framework of the risk assessment framework.
- 2.56. The systematic and ad-hoc information exchanged within the college can be relevant to both the group and individual supervisors. Examples include the risk assessment framework outcomes of the insurance group and the related individual insurance and reinsurance undertakings and changes in the group's organisational structure.

Impact and Risk Classifications

Stage 2. Assessing impact and determining the impact classification from 4 categories

Guideline 15 – Determination of undertaking impact classification

The national supervisory authority should include in the risk assessment framework an assessment of the potential impact of all insurance and reinsurance undertakings. This assessment should reflect the potential impact that the failure of a particular undertaking would have on its policyholders and beneficiaries and on the market.

The national supervisory authority should assign an impact classification to each undertaking on a scale with 4 categories, being 'Impact class 1' the lowest impact on policyholders and beneficiaries and on the market and 'Impact class 4' the highest impact on policyholders and beneficiaries and on the market.

- 2.57. The impact class assigned by a supervisory authority is to be derived predominately from supervisory analyses conducted in accordance with the supervisory authority's internal methodology for measuring potential impact in order to take into account market specificities of the Member State.
- 2.58. The approach of the supervisory authority to measuring impact is to be applied to all insurance and reinsurance undertakings in the Member State regardless of their type and size. However, within the methodology there is scope for the use of supervisory judgement and to override the impact measurement where appropriate. For example, there may be factors that affect the potential impact of the undertaking that would not have been captured by the supervisory authority's established methodology. Any such override, if applied, would preferably be subject to appropriate internal governance within the supervisory authority.
- 2.59. The supervisory authority's methodology for measuring potential impact could seek to use a range of measures that reflect and assess the impact of different activities of the undertaking and the undertaking's importance for the market. Any criteria or metrics used by supervisory authority within its methodology may address both the impact on policyholders and beneficiaries and the impact on the market.
- 2.60. The following paragraphs provide some examples of the criteria supervisory authorities might apply when assessing the impact of an undertaking. However, the following paragraphs are not an exhaustive list.
- 2.61. A criterion, which is expected to be an important one in considering the impact, is the size of an undertaking. The size could be measured in terms of total assets, technical provisions (e.g. life) or gross premiums (e.g. non-life), or by a combination of those. Another measure of size might be the number of contracts or policyholders.

- 2.62. Another criterion of impact could be the type of activity, for example the importance of a specific line of business, niche market activity, or the type of products and risks that the undertaking underwrites. Such that some insurance and reinsurance undertakings that are engaged in certain risk sectors, might be considered to have a high impact due to their type of activity, irrespective of their size.
- 2.63. A further criterion could be whether the undertaking is part of an insurance group and in particular what its position and role is within that insurance group.
- 2.64. The various criteria and any measures used by the supervisory authority could be used separately or in combination. The methods of selecting and aggregating the criteria and measures will be determined by the supervisory authority and reflect the supervisory experience and market specificities of the Member State.
- 2.65. Supervisory authorities ensure that all relevant persons within the authority understand how the potential impact classification is determined and how that classification changes depending on the criterion and measures used.

Guideline 16 – Determination of impact classification for insurance groups

The group supervisor should include in the group risk assessment framework an impact classification for all insurance groups.

The impact classification at insurance group level should reflect the potential impact of the failure of the insurance group, through its entities, on the group's policyholders and beneficiaries, and on the markets where the insurance group is active.

The group supervisor should, when assigning an impact classification, take into account the complexity and inter-connectedness of the insurance group.

The group supervisor should assign an impact classification to each insurance group on a scale with 4 categories being 'Impact class 1' the lowest impact of the insurance group on policyholders and beneficiaries and on the market and 'Impact class 4' the highest impact of the insurance group on policyholders and beneficiaries and on the market.

- 2.66. The failure of the insurance group as a whole may be caused by the failure or insolvency of one or more of the material entities within the insurance group, not necessarily by the failure of all the entities within the insurance group.
- 2.67. The approach of the group supervisor to measuring impact is to be applied to all groups in the Member State regardless of their type and size. However, within the methodology there is scope for the use of supervisory judgement and to override the impact measurement where appropriate. For example, there may be factors that affect the potential impact of the insurance group that would not have been captured by the supervisory authority's established methodology. Any such override, if applied, would be subject to appropriate internal governance within the supervisory authority.

- 2.68. The supervisory authority's methodology for measuring potential impact is expected to be similar to the methodology to be used for individual insurance and reinsurance undertakings and could seek to use a range of measures that reflect and assess the impact of different activities of the insurance group and the group's importance to its market. Any criteria or metrics used by the supervisory authority within its methodology may address both the impact on policyholders and beneficiaries and the impact on all the markets where the insurance group is active.
- 2.69. The insurance group impact assessment has to be more than a simple summation of the individual impact assessments. The following paragraphs provide some examples of the criteria the group supervisor might apply when assessing the impact of an insurance group. However, the following paragraphs are not an exhaustive list.
- 2.70. Size is expected to be an important criterion in considering the impact. The size of the insurance group could be measured in terms of total assets, technical provisions, gross premiums or by a combination of those. Another measure of size might be the total number of insurance contracts or policyholders.
- 2.71. However, the size of the insurance business within the insurance group is not the only relevant criterion for impact assessment of an insurance group, as the insurance group may have a more complex business profile or structure that needs to be taken into account.
- 2.72. In assessing the complexity and inter-connectedness of the insurance group, the group supervisor may consider the organisational and geographical structure of the insurance group, the presence of intra-group transactions, risk concentrations at the group level, cross-border jurisdictional issues, as well as cross-sectoral issues as well as the allocation and availability of the group's capital.
- 2.73. Supervisory authorities ensure that all relevant persons within the authority understand how the potential impact classification for insurance groups is determined and how that classification changes depending on the criterion and measures used.

Stage 3. Assessing risk and determining the risk classification from 4 categories

Guideline 17 – Determination of undertaking risk classification

The national supervisory authority should identify and assess the current and future risks that insurance and reinsurance undertakings face or may face, including the ability of the undertaking to withstand possible events or future changes in economic conditions, and their potential adverse effect on the solvency and financial position, the viability of the undertaking and its ability to meet its obligations to policyholders and beneficiaries if the risks materialise.

The national supervisory authority should carry out this risk identification and assessment for all insurance and reinsurance undertakings taking into account quantitative and qualitative criteria and measures relevant to each undertaking.

The national supervisory authority should assign insurance and reinsurance undertakings a risk classification on a scale with 4 categories: from 'Risk class 1' that corresponds to being best able to withstand the risks materialising, to 'Risk class 4' that corresponds to being least able to withstand the risks materialising.

- 2.74. The risk classification seeks to reflect the supervisor's assessment of the undertaking's current and prospective solvency and financial position, compare its risk profile with its risk bearing capacity and detect potential problems that may impact the undertaking's viability and capacity to meet its obligations towards policyholders and beneficiaries.
- 2.75. The approach of the supervisory authority to measuring risk is to be applied to all insurance and reinsurance undertakings in the Member State regardless of their type and size. However, within the methodology there is scope for the use of supervisory judgement and to override the risk measurement where appropriate.
- 2.76. Supervisory authorities develop their own methodology for the risk classification. However, at a minimum, the assigned risk classification is expected to reflect a high-level assessment and evaluation of the strategies, processes and reporting procedures established by the undertaking to comply with Solvency II. It could also comprise the assessment of risks that the undertaking face or may face and the assessment of the ability of that insurance and reinsurance undertaking to assess those risks taking into account the environment in which the undertaking is operating and, where appropriate, the assessment of the qualitative requirements relating to the system of governance.
- 2.77. The high level assessment considers the following five areas and takes into account the proportionality principle:
- a) business and performance;
 - b) system of governance, including ORSA;
 - c) risk profile;
 - d) valuation for solvency purposes;

e) capital management.

- 2.78. When assessing the risk classification it will be based on various criteria and measures, depending on the type of undertaking concerned and the characteristics of the relevant market. These criteria and measures are not only quantitative, but also qualitative, and their use does not lead to a mechanistic risk assessment by the supervisory authority based only on thresholds and scoring. The extent of the use of the quantitative and qualitative criteria and measures is to be defined by each supervisory authority.
- 2.79. Several examples of criteria and measures for the five areas mentioned above are further developed below. The examples provided aim to indicate the criteria and measures that might be applied, but are neither exhaustive, nor necessarily the most relevant for every national supervisory authorities. When carrying out the risk classification the supervisory authority considers the qualitative and quantitative information that is available including early warning indicators arising from the current data.
- 2.80. The identification and assessment of the risks performed for each area are used together to determine the risk classification of each undertaking.
- 2.81. The examples of criteria and measures referred to in the paragraphs below may be used as a reference at one point in time, as an evolution analysis and by comparison with peer groups and market benchmarks.

Business and performance

- 2.82. With regard to the business and performance of the undertaking, there are general criteria and measures to be used regardless of the type of business and specific criteria and measures that may vary according to the type of business, for example distinguishing between life, health, non-life and reinsurance.
- 2.83. Specific examples of general criteria and measures include: analysis of the importance of specific lines of business in which the undertaking is operating, amount and growth of premiums written, gross and net, per line of business and an analysis of underwriting and investment performance.

System of governance

- 2.84. With regard to the system of governance, it is important to assess its quality in order to determine the ability of the undertaking to identify measure, monitor, manage and report the risks. For example, it could include an assessment of the structure and operation of the risk management and internal control systems within the undertaking and the competence of the persons responsible for the key functions, the consistent implementation of the risk management and internal control systems, the reporting procedures, etc.
- 2.85. Examples of general criteria and measures include: the frequency of material changes in the system of governance that have taken place over the last reporting periods; the number of outsourced critical or important operational functions or activities and the jurisdiction in which the service providers of such functions or activities are located; an assessment of how the own risk and

solvency assessment is performed and how it is integrated into the management process and into the decision-making process of the undertaking.

Risk profile

- 2.86. With regard to the risk profile, the classification of the risks may start from the impact on the main risk factors, for example the weight risk module, for insurance and reinsurance undertakings using the standard formula, or component, for insurance and reinsurance undertakings using an internal model, in the SCR. The assessment of the main risk factors may be conducted on the basis of the identification of the main risks affecting the financial or the insurance market as a whole and on the main risks affecting each specific undertaking.
- 2.87. Examples of general criteria and measures include: stress tests results, exposure to derivatives and structured products, measures to assess the adequacy of the asset liability management (ALM) or the exposure to credit risk of reinsurers and exposures to catastrophe risks.

Valuation for solvency purposes

- 2.88. The risk classification with regard to the valuation for solvency purposes includes the valuation of assets, technical provisions and other liabilities.
- 2.89. Examples of general criteria and measures include: analysis of the accuracy of the information reported on investments, proportion of investments valued with alternative valuation methods, variation of technical provisions and sources of such variations or analysis of information on the back testing.

Capital management

- 2.90. With regard to the capital management, the risk classification includes an assessment of the compliance with the regulatory capital requirements and of the quality and quantity of own funds. Examples of general criteria and measures include: the solvency ratio, volatility of the SCR over the last reporting periods or the expected development of the SCR and own funds.

Guideline 18 – Determination of the risk classification for insurance groups

The group supervisor should identify and assess the current and future group level risks that could affect the insurance group, including the ability of the insurance group to withstand possible events or future changes in economic conditions and their potential adverse effect on the solvency and financial position, the viability of the insurance group and the group's individual insurance and reinsurance undertakings' abilities to meet their obligations to policyholders and beneficiaries if the risks materialise.

The group supervisor should, when assessing the risks of the insurance group, consider the group-specific issues outlined in Guideline 10.

The group supervisor should carry out this risk identification and assessment for all insurance groups taking into account quantitative and qualitative criteria and measures relevant to the insurance group.

The group supervisor should assign a risk classification to each insurance group on a scale with 4 categories: from 'Risk class 1' that corresponds to being best able to withstand the risks materialising, to 'Risk class 4' that corresponds to being least able to withstand the risks materialising.

- 2.91. The risk classification seeks to reflect the supervisor's assessment of the insurance group's current and prospective solvency and financial position, compare its risk profile with its risk bearing capacity and detect potential problems that may impact the group's viability and the group's undertakings' capacity to meet their obligations towards policyholders and beneficiaries.
- 2.92. However, at a minimum, the assigned risk classification is expected to reflect a high-level assessment and evaluation of the strategies, processes and reporting procedures established by the insurance group to comply with Solvency II. It comprises the assessment of risks that the group faces or may face and the assessment of the ability and controls of that group to assess and mitigate those risks, taking into account the environment in which the insurance group is operating and the assessment of the qualitative requirements relating to the system of governance. The group supervisor also considers any existing centralised group functions or outsourcing of the functions within the insurance group.
- 2.93. The approach of the group supervisor to measuring risk is to be applied to all groups in the Member State regardless of their type and size. However, within the methodology there is scope for the use of supervisory judgement and to override the risk measurement where appropriate.
- 2.94. Supervisory authorities develop their own methodology for the risk classification. The supervisory authority's methodology for determining risk classifications is expected to be similar to the methodology used for the risk classification of individual insurance and reinsurance undertakings by considering the following five areas as outlined in the explanatory of Guideline 17, paying particular attention to the group-specific issues as outlined in Guideline 10:
- a) group business and performance;
 - b) group system of governance;
 - c) group risk profile;
 - d) group valuation for solvency purposes;
 - e) group capital management.
- 2.95. When assessing the risk classification, it will be based on various criteria and measures, depending on the characteristics of the group and the relevant markets. These criteria and measures are not only quantitative, but also qualitative, and their use does not lead to a mechanistic risk assessment by the supervisory authority based only on thresholds and scoring. The extent of the use of the quantitative and qualitative criteria and measures is to be defined by each supervisory authority.

- 2.96. The group risk assessment needs to be more than a simple summation of the individual risk assessments. Consideration ought to be given by the group supervisor to where the risks originate, and whether the risks are exacerbated or diversified at the group level.
- 2.97. The identification and assessment of the risks performed for each area are used together to determine the risk classification of each group.

Stage 4. Outcome of the Risk assessment framework

Guideline 19 – Determination of outcome of the risk assessment framework

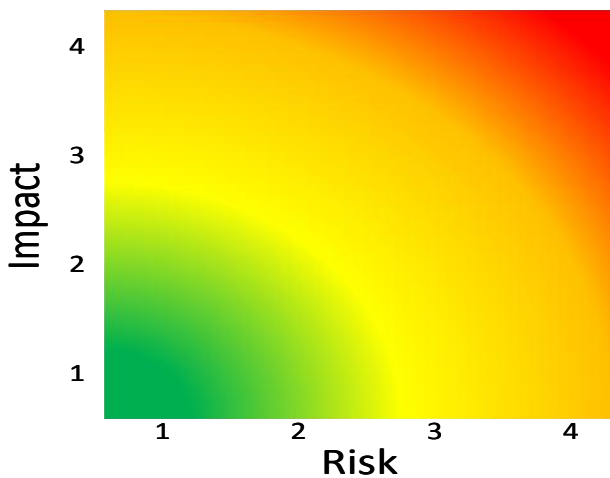
The national supervisory authority should ensure that the risk assessment framework outcome for all insurance and reinsurance undertakings and groups includes an impact classification and a risk classification, whether combined or not, and that they are used together with other relevant supervisory information, for the purpose of setting the supervisory plan.

If there is a college, when exchanging the outcomes of the risk assessment framework (group and individual) the group supervisor and the other supervisory authorities should be able to explain the rationale of the outcome so to enable the college to form a shared view of the risks of the group.

- 2.98. The risk assessment framework focuses on the outcome of both the impact assessment and the risk assessment for each undertaking, which represent the outcome of the risk assessment framework. The approach of the supervisory authority to measuring the outcome of the risk assessment framework is to be applied to all insurance and reinsurance undertakings and groups in the Member State regardless of their type and size. However, within the methodology there is scope for the use of supervisory judgement and to override the risk measurement where appropriate.
- 2.99. Regardless of whether the supervisory authority combines the impact and risk classifications, or not, supervisors are expected to challenge the result of the impact and risk classification for a specific undertaking and, if appropriate, to change it. The basis for changing any impact or risk classification has to be appropriately documented.
- 2.100. The group risk assessment framework process and the individual risk assessment framework processes will not necessarily give identical outcomes, even if the ultimate parent undertaking is an insurance or reinsurance undertaking.
- 2.101. Where the insurance and reinsurance undertakings within a group are predominantly located in the member state of the group supervisor, and the group supervisor considers it appropriate, taking into account the specificities of the group, the group supervisor may determine the group risk assessment framework outcome in conjunction with the individual risk assessment framework.

2.102. The approach of the supervisory authority to assigning the risk assessment framework outcome of each undertaking may be carried out in accordance with the methodology of the supervisory authority. It could, for example, be represented in a graduated matrix that indicates the positioning of each undertaking depending on the level and combination of the assigned impact and risk classifications. An example of a graduated matrix is set out below together with a narrative description of the indicative risk and impact profiles. Although the example is symmetric this does not mean that insurance and reinsurance undertakings with the same colours but near different axis are treated in the same way.

Example of Combined Outcome of risk assessment framework



Green

Insurance and reinsurance undertakings that fall within this risk profile are considered to have a limited impact on policyholders or the market and are best able to withstand risks that do materialise. The risk assessment may reveal a strong system of governance, including the risk management system and a comfortable solvency ratio.

Yellow

Insurance and reinsurance undertakings that fall within this profile are not expected to suffer significantly if their identified risks materialise and are not expected to have material impact on policyholders or the market. However the risk profile or the impact on policyholders or the market is higher than those in the green profile. The risk assessment may have identified some risks that, although important, are not considered to be detrimental to the undertaking.

Orange

Insurance and reinsurance undertakings that fall within this profile are at risk of suffering significantly if their identified risk materialise. They will likely have a material impact on policyholders or the market. However the risk profile or the impact on policyholders or the market is not so high as for those in the red profile. The risk assessment may have identified risks that, if they occur, will lead to the undertaking suffering detriment and being at risk of not meeting

their commitments to policyholders and beneficiaries, over the long term. The risk assessment may reveal weaknesses in the system of governance, including the risk management system.

Red

Insurance and reinsurance undertakings that fall within this profile are considered to have high potential impact on policyholders or the market and are considered least able to withstand risks if they materialise. The risk assessment is likely to have identified significant risks that are detrimental to the undertaking in a number of areas, low level in the solvency ratio, or weaknesses in the system of governance, including the risk management system.

Stage 5. Create supervisory plan and determine the intensity of supervision

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

The national supervisory authority should utilise the outcome of the risk assessment framework, together with the details of the risks identified, the various priorities and constraints of the national supervisory authority and other relevant supervisory information, to develop the supervisory plan.

The supervisory plan should set out the frequency and intensity of supervisory activities for each undertaking. The supervisory plan should be commensurate to the nature, scale and complexity of the undertaking.

- 2.103. In some circumstances no further supervisory activities, beyond the regular assessment of inbound information will be carried out, if considered appropriate in the opinion of the supervisory authority.
- 2.104. Where there are insurance and reinsurance undertakings with similar characteristics and risk profiles or if they are part of the same group, the supervisory authority can consider ways to supervise the insurance and reinsurance undertakings through a common supervisory plan, for example, through common surveys or theme-focused analysis.
- 2.105. When the supervisory authority considers it necessary to go beyond the assessment of inbound information, the supervisory plan may identify what the supervisory authorities considers are the key risk areas of the undertaking to be further reviewed with the methods that would be best used for such a review. It could include:
- a) the scope of the activities to be carried out, for example off-site analysis or on-site inspections;
 - b) the amount of time planned to perform further supervisory work;
 - c) the off-site analysis to be performed;
 - d) the type and timing of meetings to be planned;
 - e) on-site inspection to be carried out;

f) follow-up actions initially foreseen.

2.106. Whilst the supervisor has regard to the outcome of the risk assessment framework, including details of the risks identified, the supervisory authority also considers its various priorities and constraints and other relevant information when establishing the scope and frequency of on-site inspections, off-site activities and the overall supervisory plan for the undertaking.

2.107. The supervisory plan needs to be reviewed and up-dated whilst supervisory activities are carried out, for example, in response to further information provided by the undertaking upon request together with follow-up supervisory actions that may be taken. In addition, the supervisory plan may be appropriately adjusted due to the results of any off-site analysis or on-site inspection.

2.108. The undertaking's willingness to address identified issues and the actions subsequently taken have to be considered in the ongoing evaluation of the risk profile of the undertaking and need to be accounted for in the ongoing supervisory plan.

2.109. Through ensuring the supervisory plan reflects the risk assessment framework outcome and supervisory judgement, as indicated by the examples above; a risk-based approach is applied throughout the supervisory review process.

2.110. For insurance groups, when the key risk area relates to a non-insurance entity, the supervisor may want to consider involving relevant supervisory authorities other than insurance supervisors. When it relates to an unregulated entity, supervisors of an undertaking that has significant interactions with the unregulated entity could be involved.

2.111. The group supervisory plan may incorporate the supervisory plans of the individual insurance and reinsurance undertakings that are part of the insurance group, if under the same supervisory authority, as long as both the insurance group and individual aspects of the plan are clearly identifiable.

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

If there is a college, the group supervisor should include the relevant aspects of the group supervisory plan in the college work plan (as set out in Guideline 12 of the Guidelines on operational functioning of colleges) for discussion and action within the college.

Relating to the group supervisory review process, the college work plan should include:

- a) a description of the main risks being focused on as a result of the outcome of the group risk assessment framework;
- b) descriptions and rationale of the activities to be carried out within the college on the basis of the group supervisory plan;
- c) the identification of the relevant entities within the insurance group and their

supervisory authorities that the group supervisor is likely to seek input from.

2.112. Individual supervisors can contribute information from their individual supervisory plans so that the group supervisor may draw up the college work plan, to assist coordinating activities within the college where appropriate.

2.113. Where the group supervisor intends to request verifications from other supervisory authorities within the college, they need to make the request in line with Article 255 of the Solvency II Directive.

Guideline 22 – Governance of the supervisory plan

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

2.114. The supervisory plan needs to be subject to an oversight and a governance process within the supervisory authority to ensure it appropriately addresses the risks identified within the insurance and reinsurance undertakings. This ensures a consistent approach to the supervision of similar risks, that appropriate supervisory activities are pursued with respect to certain risks and the appropriate allocation of resources.

2.115. Supervisory authorities have the discretion to adapt the supervisory plan to reflect: the constraints of the supervisory authority, any urgent actions required and any recommendations that arise from the internal governance processes. The reasons for adapting have to be adequately documented.

Stage 5. a) Insurance and reinsurance undertakings notified of RSR frequency

Guideline 23 – Notification of the frequency of regular supervisory report

The national supervisory authority should notify insurance and reinsurance undertakings of the frequency of the regular supervisory report required, be it annually, every two or three years, as well as any subsequent change to that, as soon as possible and no later than three months in advance of the insurance and reinsurance undertakings' financial year end.

The decision on frequency should, at least, take the outcome of the risk assessment framework, other supervisory information and the exercise of supervisory judgement into consideration.

If there is a college, the supervisory authorities should communicate changes to the regular supervisory report frequency to the group supervisor, before notifying the insurance and reinsurance undertakings if appropriate.

2.116. Where the undertaking belongs to an insurance group, any changes to the frequency may affect the way the insurance group gathers information necessary for its RSR from the entities that are part of the group. If the supervisor believes other entities in the insurance group will be materially

affected by the change, they need to notify any relevant supervisory authorities that may be affected to discuss the changes.

Guideline 24 – Update of the risk assessment framework

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

- 2.117. The supervisory review process is a cyclical process and can also be an iterative process. The risk assessment framework is a supervisory tool that is expected to be utilised and updated when appropriate at any point throughout the supervisory review process e.g. according to the judgement of the supervisory authority, any ad-hoc information received, etc. It may be appropriate to move through various stages within the risk assessment framework more quickly than other stages.
- 2.118. The frequency and scope of the risk assessment framework is dynamic for all insurance and reinsurance undertakings and can evolve over time. The risk assessment framework is not a strict process that governs the actions of supervisory authorities and it does not limit the actions of the supervisor by removing supervisory discretion from the day-to-day process of supervision.
- 2.119. Supervisory authorities have a considerable degree of discretion in assigning the impact and risk classification and deciding how the risk assessment framework informs the supervisory review process. The use of supervisory judgement is essential to prevent a purely mechanistic approach within the risk assessment framework and consequently within other components of the supervisory review process.
- 2.120. Where insurance and reinsurance undertakings are part of a group, the individual risk assessment framework processes of the insurance and reinsurance undertakings within the group do not always need to be updated each time the group risk assessment framework process is carried out, or vice versa.

Section IV - Detailed Review

Stage 6. Carry out detailed review

Guideline 25 – Detailed review activities

The national supervisory authority should carry out detailed review activities, whether off-site analysis or on-site inspections, based on the supervisory plan, taking into account all relevant information and focusing on the areas of risk as identified in the risk assessment framework.

If there is a college, the supervisory authorities should also refer to the college work plan when carrying out the detailed review activities with regard to any participation of other national supervisory authorities in line with the Guidelines on operational functioning of colleges.

- 2.121. Detailed review activities will be carried out in accordance with the supervisory plan, and the college work plan, if there is a college, and will take into account all available information. The supervisory activities forming part of detailed review can include:
- a) Off-site analysis;
 - b) On-site inspections.
- 2.122. Both off-site analysis and on-site inspections are essential tools to help supervisory authorities in assessing, the compliance with legislation and regulation, the risks which the undertaking faces or may face and the risk-management capabilities of the undertaking. In particular, it is important to assess the compliance with the system of governance, including own-risk and solvency assessment, and verify the financial strength of the undertaking, particularly in respect of the technical provisions, capital requirements, investments and own funds. Off-site analysis and on-site inspections may also promote a better understanding by insurance and reinsurance undertakings of the priorities and agenda of supervisory authorities. Additionally, on-site inspections offer the opportunity to verify the operation and appropriateness of processes and procedures in place within the undertaking.
- 2.123. In order to properly assess the identified areas of risks and the effectiveness of the controls available at the level of the insurance group, the group supervisor considers any existing centralised group functions (e.g. risk management, internal audit, actuarial function and internal control) or any kind of outsourcing of the control functions within the insurance group.
- 2.124. Detailed review activities are based on the undertaking's information available to the supervisory authority, including regular supervisory reporting, information or reporting specifically requested by the supervisory authority for analysis, etc.
- 2.125. Mostly, the detailed review will be determined by the supervisory plan. Nevertheless on-site inspections can also be triggered by findings during off-

site detailed analysis, as well as, in the case of insurance groups, information exchanged between supervisory authorities, etc.

- 2.126. The detailed review can apply undertaking-focused or theme-focused analyses/inspections or a combination of both, depending on the objectives of the supervisory authorities. Theme-focused analysis, across all or a wide range of insurance and reinsurance undertakings or entities, is more likely to deal with specific issues, and promotes the understanding of the individual performance in comparison with industry peers.
- 2.127. An undertaking-focused analysis/inspection may require a significant amount of time and resources but has the advantage of supporting a comprehensive assessment of the undertaking while ensuring that the assessment is up-to date.
- 2.128. It is possible to combine both approaches and supervisory authorities are expected to use their judgement to evaluate the options available to them, keeping in mind the nature, scale and complexity of the activities and risks of the undertaking.
- 2.129. The supervisory authority ensures that the outcome of those analyses and inspections can be shared internally. This sharing may improve the common knowledge of market practices and reduce situations of committing scarce resources or to overly burden insurance and reinsurance undertakings.
- 2.130. The supervisory authority can extend the range of off-site analysis and on-site inspections beyond the supervised undertaking or group of insurance and reinsurance undertakings to entities to whom the supervised undertaking has outsourced functions.
- 2.131. The first step in a detailed review may consist of a deeper analysis regarding the areas of specific concern, including the interdependencies between risks. For insurance groups, interdependencies between risks can also occur across undertakings within the group.
- 2.132. Supervisory authorities look attentively to the undertaking's information at its disposal. The available information may include, but is not restricted to:
- a) Historical information from regular reporting and other inbound information received from the insurance and reinsurance undertakings;
 - b) Previous findings on the insurance and reinsurance undertakings;
 - c) Other undertaking information, such as data from financial statements;
 - d) Additional information requested ad-hoc from the insurance and reinsurance undertakings;
 - e) Outcomes and conclusions of specific stress tests performed by the insurance and reinsurance undertakings;
 - f) Outcomes and conclusions of specific stress tests or scenario simulations carried out by the supervisory authority;
 - g) Information from other supervisory authorities, including information exchanged within colleges; and

h) Market wide information, for instance to identify trends in the market or to compare peers.

2.133. Where supervisory authorities, including the group supervisor, believe a verification will be needed from another insurance supervisory authority as part of the detailed review, they will need to ask the supervisory authority for the verification in line with Article 255 of the Solvency II Directive. They may also ask to participate in the verification or an on-site examination in line with Article 255 and Guideline 21 of the Guidelines on operational functioning of colleges.

2.134. The supervisory authorities, including the group supervisor, that receive requests for verifications from other supervisory authorities may choose the most appropriate method of verification in line with Article 255 of the Solvency II Directive and Guideline 20 in the Guidelines on operational functioning of colleges.

Guideline 26 – Request for additional information during the detailed review

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

2.135. The assessment of the need for additional information may take place during or after the supervisory plan is determined. These information requests to insurance and reinsurance undertakings come in addition to any request that have been made during the risk assessment framework and the response is expected to be adequate and sufficient.

2.136. The additional information or analysis required may take several forms, for example: more detailed quantitative information, qualitative information or internal reports.

2.137. It may also be the case that insurance and reinsurance undertakings are required to perform additional tasks where more information is needed. Examples are carrying out specific stress tests by the insurance and reinsurance undertakings and reporting to the supervisory authority the results and conclusions.

2.138. Alternatively, supervisory authorities may perform those additional tasks themselves and, therefore, require the necessary information from the undertaking. These tasks can e.g. be performed when the supervisory authority feels the need to understand how the insurance and reinsurance undertakings cope with events or future changes in economic conditions that could have negative effects on their overall financial standing.

2.139. The setting of a reasonable timeframe by the supervisory authority is dependent on the type of information required. For example when requiring additional tasks employing non-regular data, a longer period to provide the

report to the supervisory authority is expected. However, urgent requests or those involving updates on regular information are expected to be reported within a shorter timeframe.

2.140. As a consequence of the analysis or the tasks performed at this stage, the outcome of the risk assessment framework, the subsequent supervisory plan and the detailed review might be affected and revised.

2.141. At group level, when the group supervisor needs additional information from insurance and reinsurance undertakings that are not within its jurisdiction, they will need to follow the procedures outlined in Articles 250, 254 and 255 of the Solvency II Directive in requesting information. If there is a college, requests need to be in line with the Guidelines on operational functioning of colleges.

Guideline 27 – Detailed review conclusions

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

2.142. Notwithstanding Guideline 32, supervisory authorities are expected to record all its final main findings, conclusions and measures and may produce a document, if appropriate.

2.143. The final conclusions may cover the following areas:

- a) Scope and objectives;
- b) Summary of the detailed review;
- c) Information used;
- d) Tools employed;
- e) Records of dialogues that occurred;
- f) Analyses performed;
- g) Findings and conclusions;
- h) Proposals of preventive and corrective measures and follow-up actions.

2.144. If there is a college, supervisory authorities need to communicate findings and conclusions within the college in line with the relevant requirements and guidelines (as stated in the explanatory text of Guideline 6).

Stage 6(i). Off-site analyses

Guideline 28 – Detailed off-site analyses

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

- 2.145. The off-site analyses can be performed for specific risks areas or insurance and reinsurance undertakings for which the outcome of the risk assessment framework does not lead to a detailed analysis. It could cover issues that are common to the entire insurance market, or focused on specific issues and can be used for comparisons between insurance and reinsurance undertakings.
- 2.146. As consequence of the detailed off-site analysis, the review process can be changed to reflect the conclusions of the analysis. The outcome of the risk assessment framework, the supervisory plan and the detailed review can be affected, for example by changing the intensity of supervision in certain areas, or even trigger an on-site inspection.

Stage 6(ii). On-site inspections

Guideline 29 – On-site inspections

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

- 2.147. For the purposes of this paper, the definition of an on-site inspection is an organised assessment or formal evaluation exercise, performed at the location of the supervised undertaking, or the service providers to whom the supervised undertaking has outsourced functions, which leads to the issuing of a document communicated to the undertaking.
- 2.148. Consequently, as examples, the following procedures are not regarded as on-site inspections, even though they may form part of the detailed review of an undertaking by the supervisory authority:
- a) Supervisory visits or meetings at the supervisory authority's premises or at the undertaking's premises, not resulting in a document communicated to the undertaking;
 - b) Exploratory meetings or presentations from insurance and reinsurance undertakings to supervisory authority;
 - c) Supervisory visits to understand more about certain specific issues, which can be considered fact finding exercises.
- 2.149. Supervisory authorities ensure that they track and record the number of on-site inspections undertaken and the total number of man-days spent, specifying the number of regular inspections, ad-hoc inspections, inspections of third parties

and on-site inspections under group supervision which were undertaken jointly with other members of the college.

2.150. Inspections can be classified as regular inspections and ad-hoc inspections.

2.151. A regular inspection is a scheduled on-site inspection arising from the supervisory plan.

2.152. An ad-hoc inspection is an on-site inspection that does not necessarily result from risk assessment framework process or has not been initially defined in the supervisory plan. However typically the need for ad-hoc inspections arises when the supervisory plan has to be adjusted to reflect the supervisory authorities' constraints or other new priorities. It could be triggered, for instance, when the supervisory authority becomes aware of a situation that calls for further investigations to be conducted on-site.

2.153. If there is a college, on-site examinations need to be carried out in line with Article 255 of the Solvency II Directive and the Guidelines on operational functioning of colleges.

Guideline 30 – Governance of on-site inspections

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

2.154. It is expected that supervisory authorities have an adequate system of governance of on-site inspections in place in order to ensure that this system is internally reviewed on a regular basis and is appropriate for the supervisory review process.

2.155. Supervisory authorities are expected to identify, for internal purposes all on-going and planned regular on-site inspections procedures, to ensure consistency throughout the process. In particular, supervisory authorities have to ensure that they appropriately address the issues identified, to monitor the consistency in approach to supervision of similar issues, to ensure appropriateness of on-site inspections with respect to certain risks and to ensure the appropriate allocation of resources.

Guideline 31 – Process to follow for on-site inspections

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

2.156. Irrespective of the type of inspection, the process is expected to be the same. The process is meant to take into account the objectives of the inspection and the supervisory resources. However, an ad-hoc inspection may have a more flexible process taking into account the particular situation.

2.157. In the event of crisis or when an emergency situation arises, some of the phases could be simplified or even omitted.

- 2.158.If significant issues arise that require immediate action, any processes the supervisory authorities may have adopted may be simplified as they may need to react quickly to an event or when receiving information.
- 2.159.If there is a college, the supervisory authorities may also need to communicate with the college in line with Articles 249 and 250 of the Solvency II Directive if significant issues arise. The involvement of other supervisory authorities needs to follow Guideline 20 of the Guidelines on operational functioning of colleges in relation to the on-site examination.
- 2.160.Verifications of information carried out in accordance with Article 255 of the Solvency II Directive are carried out through on-site examinations. On-site examinations may have different scopes and take different forms, one of them being on-site inspections. It is intended that Guideline 20 of the Guidelines on operational functioning of colleges applies to all on-site examinations. However, it is not expected that Guidelines 29 to 32 of these Guidelines apply in the same extent to all on-site examinations, but only to those on-site examinations that take the form of an on-site inspection, such as a general verification of an undertaking's solvency or risk-management.

Preparation phase of on-site inspections

- 2.161.Once the on-site inspection is planned, the supervisory authority may carry out preparatory work before visiting the undertaking premises.
- 2.162.The preparation phase may include:
- a) Information gathering;
 - b) Development of the inspection plan;
 - c) Communication with the undertaking;
 - d) Informing the group supervisor of the college if the undertaking belongs to an insurance group.
- 2.163.Initially, the supervisory authority may carry out a survey of relevant information available for the assessment of the topics under review during the on-site inspection.
- 2.164.Based on this survey and its preliminary assessment an inspection plan can then be developed which may specify the main aspects which are to be analysed in the course of the on-site inspection. This plan can include:
- a) Objectives and scope;
 - b) Methodology to be used in the analysis;
 - c) Information to be requested before the review commences;
 - d) Tools to be used in review e.g. questionnaires, assessment criteria, and others;
 - e) A provisional agenda.
- 2.165.Communication with the undertaking in advance of the on-site inspection facilitates the collection of information before and during the on-site inspection

and the resolution of some administrative and logistical matters, such as meetings with key persons or availability of workspace for supervisors.

- 2.166. Communication with the undertaking regarding the upcoming inspection can be done in stages, starting with the provision of information to the undertaking about the intended inspection, including the agenda and possible information requests prior to the inspection. The plan for the on-site inspection is for internal purposes only.
- 2.167. Nevertheless, there may be cases where the supervisory authority may not want to inform the undertaking of its intention to perform an on-site inspection or to disclose the issues to be reviewed in advance.
- 2.168. The agenda and the content of the inspection plan can be modified as a result of further information and communication with the undertaking. Modifications can be expected in advance of the on-site inspection as well as during the on-site inspection.

Field work of on-site inspections

- 2.169. The first stage of the on-site inspection may be an initial meeting with the administrative, management or supervisory body of the undertaking or with other persons who effectively run the undertaking or hold key functions.
- 2.170. As a result of the initial meeting or following information received prior to, or during, the on-site inspection, adjustments to the on-site inspection plan can be made.
- 2.171. Depending on the risk area subject to inspection, field work may be necessary to analyse information which is only available at the undertaking, such as specific documentation or operational systems. In order to process this information it may be necessary to undertake some further analyses.
- 2.172. Discussions could take place with the undertaking's management or other personnel when necessary. Third parties to the undertaking, such as external auditors, may also be contacted by the supervisory authority.

Guideline 32 – Written conclusions of on-site inspections

The national supervisory authority should communicate the conclusions of the on-site inspection in writing to the insurance and reinsurance undertaking and should allow the undertaking to respond to the conclusions within a reasonable timeframe as set by the supervisory authority. The supervisory authority should communicate these conclusions to those persons who effectively run the undertaking and are considered appropriate in that context.

If there are other supervisory authorities involved in the on-site inspection, the supervisors should discuss the conclusions that will be communicated to the relevant insurance and reinsurance undertakings that are part of the insurance group before communicating them.

- 2.173. Written conclusions state the findings identified by supervisors during the on-site inspection, including possible non-compliance with regulatory requirements which would lead to supervisory measures, as appropriate.
- 2.174. Insurance and reinsurance undertakings are given the opportunity to respond to the conclusions. These are communicated, at least, to the persons who have the competence and the capability to implement necessary measures in order to ensure that findings are appropriately addressed. If necessary, meetings with those persons may also be arranged.
- 2.175. The implementation of preventive and corrective measures is expected to be monitored by the supervisory authority, usually through off-site analysis. However, it can also be necessary to carry out a further on-site inspection aimed at perceiving how these measures were implemented in the current management process of the undertaking.

Section V - Supervisory Measures

- 2.176. The supervisory authority may also consider the need to update the outcome risk assessment framework, even if no measures are identified.

Stage 7. Identification of Supervisory Measures

Guideline 33 – Identification of matters leading to the supervisory measures

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

- 2.177. The potential or actual non-compliance has to be evaluated with regard to all the provisions that relate to the proper functioning of the insurance business and with which the insurance and reinsurance undertakings have to comply in each Member State, which expand on the provisions of Solvency II.
- 2.178. The scope of the assessment will include the undertaking's ability to withstand possible events or future changes that could negatively impact its overall solvency and financial position.

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

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

- 2.179. When assessing the significance of actual or potential non-compliance, the supervisor will consider the seriousness of the risks, weaknesses or deficiencies identified, and the level of awareness, capacity and risk and governance culture of the undertaking.

- 2.180.If the undertaking is part of an insurance group, the critical findings might be relevant at group level where they may affect the group as a whole, or, other undertakings in the group.
- 2.181.If there is a college, the individual supervisory authority is responsible for informing the group supervisor, and where relevant the other authorities concerned, especially in the case of exceptional circumstances such as a significant breach of the solvency capital requirements, in line with Article 249 and 250 of the Solvency II Directive and the Guidelines on operational functioning of colleges.
- 2.182.Conversely, it may happen that critical findings regarding an undertaking are pointed out by another supervisory authority in the college. The individual supervisor of that undertaking is then responsible for assessing the critical findings identified and whether measures are necessary at individual level.

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

The group supervisor identifies and assesses any weaknesses and actual or potential deficiencies or non-compliance from a group-wide perspective, taking into account the specificities of the group structure and business and the interconnectedness of the insurance group.

The group supervisor should consider whether the findings on weaknesses and actual or potential deficiencies or non-compliance from a group-wide perspective relate to the insurance group as a whole or to some specific insurance and reinsurance undertakings.

- 2.183.Where the group supervisor is not the supervisor of the specific undertaking, the group supervisor discusses its findings with the relevant supervisors in order to gain a shared view of the findings. The relevant supervisors are the supervisors of the individual insurance and reinsurance undertakings for which the group supervisory review process has concluded weaknesses, actual or potential deficiencies or non-compliance.
- 2.184.The group supervisor pays attention to issues related to non-regulated undertakings that are part of the insurance group even if it is not expected to play a direct supervisory role on those undertakings.
- 2.185.The analysis of the significance of the matters may include information regarding the most relevant entities in the group, for instance, about the parent undertaking, the entities that take most risk or the entities in the group in which the core business is concentrated. This analysis may be useful in identifying and assessing the appropriate undertakings for supervisory measures.
- 2.186.The group supervisor will also need to identify the appropriate legal entities that are responsible for compliance and on which those supervisory measures will be most effective. If the appropriate entity is outside the group supervisor’s jurisdiction, the group supervisor informs the supervisor of that entity, to enable them to assess and take the appropriate measures.

Guideline 36 – Different measures for varying situations

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

- 2.187. In its decision about which supervisory measures to take the supervisory authority prioritises the main objective of supervision, which is the protection of policyholders and beneficiaries. At the same time the supervisor will take into account the impact of its decisions on the stability of the financial system and the economic environment in which the undertaking operates, and, the potential pro-cyclical effects, in accordance with the general principles set out in the Solvency II Directive.
- 2.188. The decision on the measures is taken using supervisory judgement and using a proportionate approach considering the associated impact on the undertaking that may be caused by the required measures.
- 2.189. Proportionality in terms of supervisory measures refers to the undertaking specific risks, related to its own business, i.e. type of contracts issued, and to the wider market risks, related to the markets in which it operates.
- 2.190. On the basis of the findings the supervisory authority may adopt:
- a) preventive measures, or
 - b) corrective measures.
- 2.191. Preventive measures usually consist of actions required to be taken by the undertaking in cases of risk of non-compliance with some provisions to avoid the materialization of that non-compliance.
- 2.192. Preventive measures may also relate to the need for an undertaking to remedy weaknesses and deficiencies identified during the supervisory review process.
- 2.193. The aim of the preventive measures is to require the undertaking to take some actions, e.g. re-calculation of the Technical Provisions (TP), in order to prevent a non-compliance which would trigger the intervention with corrective measures, such as the request to increase the TP⁹.
- 2.194. Preventive measures may also include an instruction by the supervisor authority to the undertaking to stop certain activities for a specified period, e.g. not to underwrite new business until an identified weakness has been corrected.
- 2.195. Corrective measures usually consist of actions required to be taken by insurance and reinsurance undertakings once the non-compliance has materialised, such as the submission of a recovery plan in case of a breach of the SCR.
- 2.196. The distinction between preventive and corrective measures, i.e. between the risk of non-compliance and the actual non-compliance, may not always be

⁹ Article 85 of the Solvency II Directive which enables increase of TP explicitly refers to non-compliance with Articles 76 to 83 of the Solvency II Directive, so this is typically a corrective measure.

straightforward and therefore will depend on individual cases and the use of supervisory judgement.

- 2.197. Preventive and corrective measures may be used in combination, if considered necessary by the supervisory authority.
- 2.198. The measures to be used will include, among others, the use of powers that are explicitly mentioned in Solvency II such as capital add-ons mentioned in Article 37 of the Solvency II Directive, increase of technical provisions as mentioned in Article 85 of the Solvency II Directive, the requirement to use undertaking-specific parameters as set out in Article 110 of the Solvency II Directive or the use of an internal model following Article 119 of the Solvency II Directive, measures related to non-compliance with SCR or MCR as mentioned in Articles 138 and 139 of the Solvency II Directive or the withdrawal of authorisation following Article 144 of the Solvency II Directive. The measures could also include powers deriving from other sources, such as national laws, and may be of different nature, such as administrative and financial measures. Some of these measures can also apply to groups *mutatis mutandis*, for example, through Articles 232 and 233(6) of the Solvency II Directive in relation to group capital add-on and through Articles 218(4-5), 219(2) and 230(2) of the Solvency II Directive in relation to non-compliance with SCR and MCR.
- 2.199. The supervisory authority exercises measures according to an appropriate ladder of interventions, as referred into Recital 60 and 70 of the Solvency II Directive, between the Solvency Capital Requirement and the Minimum Capital Requirement. This means that when the capital requirement (MCR or SCR) is breached or is about to be breached, the supervisory measures vary according to the actual solvency level/position of the undertaking or group. For instance, in case of breach of SCR the intensity of supervisory measures can vary depending on whether the amount of own fund is just below the SCR or whether the level of own fund is just above the MCR.
- 2.200. Another example of a ladder or an escalation of interventions could be when the risk profile deviates from the assumptions underlying the standard formula; the supervisory authority could request the undertaking to replace a set of parameters of the standard formula with parameters specific to the undertaking. If the undertaking specific parameters are either inappropriate or not approved, the supervisory authority may require the undertaking to develop an internal model. If the internal model is not considered effective, the supervisory authority may evaluate the possibility of setting a capital add-on.
- 2.201. The identification of a ladder or an escalation of intervention is not always straightforward since several factors need to be taken into account when evaluating the impact and severity of the measures.
- 2.202. For instance, in the case of technical provisions that are not calculated according to the principles set out in Article 76 to 83 of the Solvency II Directive, Article 85 of the Solvency II Directive provides for the possibility for supervisory authorities to require an increase in the amount of technical provisions. In this case there may be other supervisory approaches that are

considered appropriate in the professional judgement of the supervisor for addressing the situation.

Guideline 37 – Decision upon measures at group or individual level

The national supervisory authorities responsible for the supervision of the relevant insurance and reinsurance undertakings or the group supervisor, in case of measures related to the insurance group as a whole, should take the necessary measures against the appropriate undertaking based on their analysis of the findings on the weaknesses, deficiencies or non-compliances.

Where measures are taken both at group and individual levels, the group supervisor and the supervisory authorities should coordinate measures, where appropriate, to enhance the effectiveness of the measures.

- 2.203. Since measures cannot be taken against the insurance group, as the group is not a legal entity, the necessary measures against the appropriate entity at the ultimate parent level or an intermediate level of the group structure (insurance or reinsurance undertaking or insurance holding company) should be taken by the relevant competent supervisory authority, including enforcement measures as set out in Article 258(1) of the Solvency II Directive.
- 2.204. Where there is non-compliance with Articles 218 to 246 of the Solvency II Directive, or where solvency is jeopardised or the financial position of the insurance group is threatened as set out in Article 258 of the Solvency II Directive, the supervisory authorities are required to apply measures in order to rectify the situation as soon as possible.
- 2.205. In certain cases critical findings at the group level can serve as a basis for taking necessary measures not only at the group level, but also at the level of individual insurance or reinsurance undertaking. When informed about critical findings at the group level, supervisory authorities should consider whether it is necessary to take measures at the level of the individual insurance or reinsurance undertaking. Measures may be more appropriate at the level of the individual insurance or reinsurance undertaking even if no measures are necessary at the group level.
- 2.206. The measures applied to the insurance group as a whole are not automatically applied to other entities within the group or to a subgroup.
- 2.207. The measures are taken to allow for all the interdependencies among the entities within the insurance group, and the possible effects on entities involved to be considered.
- 2.208. The choice of measures is expected to create a system of incentives that leads to the resolving of the critical findings at both levels jointly. For example, the measure referred to the individual entity can be taken in a way that impacts positively on the financial stability of the insurance group.
- 2.209. Article 258 of the Solvency II Directive requires certain measures to be coordinated where appropriate. Other measures could also be coordinated. A coordination of measures could involve taking similar measures against more

than one undertaking in the group. One example is a capital add-on under both Article 37 and Article 232 of the Solvency II Directive. However, measures that are coordinated are not necessarily identical measures, or measures that must be taken at the same time.

2.210. The supervisory authorities communicate the measures to the college in line with Articles 248 to 250 of the Solvency II Directive.

Guideline 38 – Governance over exercise of measures

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

2.211. It is important that the proposed measures are appropriately reviewed and approved internally before they are communicated to insurance and reinsurance undertakings.

2.212. The supervisory authority needs to have a process in place to document the measures taken for internal purposes and also for transparency and accountability purposes.

Stage 7(a). Notification of measures

Guideline 39 – Notification of measures

The national supervisory authority should notify the undertaking in writing and on a timely basis about the specific measures that the undertaking should implement. This notification should, where appropriate, include a specification of the appropriate timeframe in which the undertaking is to implement the actions necessary to comply with the measures.

If there is a college and where more than one supervisor takes measures, the supervisory authorities should consider coordinating their communication strategy.

2.213. Depending on the specific case this notification can either contain clear objectives for the undertaking to achieve within an appropriate timeframe or it will spell out specific actions to be taken by the undertaking. In the first case the undertaking can decide autonomously on the most effective actions to reach the objectives, or in the latter case it will carry out the specific actions indicated by the supervisory authority in a given timeframe.

2.214. The supervisory authority has to adequately explain the measures and actions imposed to ensure that the undertaking has a good understanding of the reasons and objectives behind them.

2.215. Supervisory authorities may wish to coordinate communication strategies, for example, when addressing the same issue at both group and individual levels to ensure the group receives consistent information.

Stage 7(b). Notification of colleges

Guideline 40 – Communication in the college

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

2.216. Measures taken at individual level are more likely to be relevant to the group supervisor's role than the roles of the other supervisory authorities. Relevance is also likely to increase the more serious the measures are, and the more significant the effect of the measures is on the undertaking or the insurance group.

2.217. Once measures are communicated to the group supervisor, the group supervisor is responsible for disseminating information, where of importance for the supervisory task of other supervisory authorities in the college, in line with Article 248(1)(a) of the Solvency II Directive and Guideline 20 of the Guidelines on operational functioning of colleges, referring to ad-hoc exchange of information.

Stage 8. Monitoring Supervisory Measures

Guideline 41 – Monitoring implementation by insurance and reinsurance undertakings

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

2.218. Supervisory authorities will ask insurance and reinsurance undertakings to implement the requirements and if necessary periodically report their progress against them.

2.219. When the undertaking is asked to take specified actions in a given time frame, the supervisory authorities have to monitor the execution of the required actions by the undertaking to ensure that it is strictly in line with the supervisory authority's decisions.

2.220. If the undertaking experiences difficulties in executing the actions, it must notify the supervisory authority in a timely manner. When the supervisory authority requires the undertaking to take actions to resolve an issue without specifying precise actions to be taken, the supervisory authority requires the undertaking to adequately demonstrate the rationale behind their proposed actions and verify that these are the most effective and efficient actions to achieve the given outcome requested from the supervisory authority. If the actions identified by the undertaking are not considered adequate, the supervisory authority will define the appropriate actions.

2.221. If there is a college, the supervisory authority which takes the supervisory measure is responsible for monitoring the implementation of the measures.

Guideline 42 – Review of supervisory measures

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

- 2.222. The supervisory authority may need to require further actions by the undertaking if the effectiveness of the implemented measures is not satisfactory or if the undertaking fails to carry out the actions at the request of the supervisory authority.
- 2.223. The supervisory authority may consider taking progressively more severe measures if the problems with the undertaking worsen.

Appendix - Applicability of the Guidelines

The table below shows the applicability of the Guidelines on the supervisory review process to the different roles of supervisory authorities.

GL	Applies to supervisors of individual insurance undertakings	Applies to group supervisors	Additional guidelines relevant where there is a college
1	X	X	
2	X	X	
3	X	X	
4	X	X	
5	X	X	X
6	X	X	X
7	X	X	X
8	X	X	
9	X	X	
10		X	
11	X	X	X
12	X	X	
13	X	X	X
14	X	X	
15	X		
16		X	
17	X		
18		X	
19	X	X	X
20	X	X	
21		X	X
22	X	X	
23	X	X	X
24	X	X	
25	X	X	X
26	X	X	
27	X	X	
28	X	X	X
29	X	X	X
30	X	X	
31	X	X	
32	X	X	X
33	X	X	
34	X	X	
35		X	
36	X	X	X
37		X	X
38	X	X	
39		X	X
40	X	X	X
41	X	X	
42	X	X	

Diagram

