



EIOPA-BoS-14/181

27 November 2014

Final Report

on

Public Consultation No. 14/036 on

Guidelines on group solvency

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1. Executive summary

Reasons for publication

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 group solvency calculation. These Guidelines relate to Articles 212 to 235 and 261 to 263 of the Directive 2009/138/EC¹ (Solvency II Directive), and to Articles 328 to 342 of the Implementing Measures².

As a result of the above, on 2 June 2014 EIOPA launched a Public Consultation on the draft guidelines on the group solvency calculation. The Consultation Paper is also published on EIOPA's website.

These guidelines were issued to NCAs to:

- Specify and harmonise the requirements on the calculation of group solvency;
- Provide guidance on the treatment of groups established in the European Economic Area in the context of Articles 213, 215, 216 and 217 of the Solvency II Directive.

Content

This Final Report includes the feedback statement to the consultation paper (EIOPA-CP-14/036) and the Guidelines. The Impact Assessment and cost and benefit analysis, and the Resolution of comments are published on EIOPA's website³.

¹ OJ L 335, 17.12.2009, p. 1–155

² As published by the European Commission on 10 October 2014:
http://ec.europa.eu/internal_market/insurance/docs/solvency/solvency2/delegated/141010-delegated-act-solvency-2_en.pdf

³ <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

The number of Guidelines on group solvency seems to be an issue for most stakeholders. They asked for the deletion of numerous Guidelines for several reasons.

In some cases, stakeholders found Guidelines inconsistent with the Solvency II Directive or the Implementing Measures. Considering the arguments developed, EIOPA deleted Guidelines 13 ("Notional solvency capital requirement and own funds for an insurance holding company and a mixed financial holding company included in the group solvency calculation"), 17 ("Availability of own funds at group level of ancillary services undertakings and special purpose vehicles") and 32 ("Treatment of reinsurance arrangements concluded within the group"). When EIOPA decided to keep Guidelines deemed inconsistent by some stakeholders, legal reasoning was provided within the resolution template.

In other cases, Guidelines seemed to repeat provisions stated within the Implementing Measures. Based on the latest draft released by the European Commission, EIOPA suppressed those Guidelines which didn't add value. Guidelines 6 ("Criteria to exercise subgroup supervision at national level or at the level of several Member States"), 14 ("Availability at group level of the eligible own funds of related undertakings"), 20 ("Treatment of non-available own funds of third country insurance and reinsurance subsidiaries for covering the group solvency capital requirement"), 25 ("Treatment of special purpose vehicles"), 29 ("Calculation of the aggregated group own funds") and 30 ("Calculation of aggregated group solvency capital requirement").

One stakeholder raised the specific issue of horizontal groups, asking for clarification on whether or not, the group solvency Guidelines are to be applied on a going-concern basis. This comment applied specifically to Guideline 18 ("Treatment of minority interests for covering the group solvency requirement"). As the whole group solvency Guidelines apply on a going-concern basis (as stated in Article 330(2) of the Implementing Measures), EIOPA did not specify it in Guideline 18 or elsewhere.

Some stakeholders believe that supervision should only apply at the ultimate level of a group and not at subgroup level. Although EIOPA shares the view that levels of supervision should not be multiplied, the Solvency II Directive refers to several cases of application and levels of group supervision in Articles 213, 215, 216 and 217. In this context, Guideline 5 was commented by many stakeholders who considered that EIOPA went beyond the Solvency II Directive: either because Guideline 5 does not provide for an automatic waiver for all groups subject to an equivalent third-country group supervision, on the basis of Article 261 of the Solvency II Directive; or because

Guideline 5 provides for a case-by-case waiver of subgroup supervision at the ultimate level in the European Union for groups subject to an equivalent third-country group supervision in contradiction with Article 215 of the Solvency II Directive.

1. Scope of the group solvency calculation and assessment of significant and dominant influence

a. Summary of the problem

Regarding the scope of the group solvency calculation, stakeholders believe that the previous wording was more consistent with the exemptions stated in Article 214(2) of the Solvency II Directive. Stakeholders also challenged the fact that when determining the scope of the group solvency calculation, significant and dominant influence is usually evidenced by one or several criteria indicated in Guideline 1 of the Guidelines on "treatment of related undertakings, including participations".

b. EIOPA resolution

The Guidelines have been revised to incorporate the exemptions allowed under Article 214(2) of the Solvency II Directive. As regards the cross-reference, please see resolution of comments on the Guidelines on "treatment of related undertakings, including participations".

2. Case of application of group supervision and Guideline 5

a. Summary of the problem

Some stakeholders consider that Guideline 5 goes beyond the Solvency II Directive because it conditions the exemption of group supervision at the ultimate level in the Union, for groups located in an equivalent third country, to criteria set out in the Guideline, where Article 261 of the Solvency II Directive stating that "Member States should rely on the group supervision exercised by the third-country supervisory authorities" would justify an automatic waiver. Other stakeholders expressed the opposite view alleging that EIOPA could not depart from the principle set out in Article 215 of the Solvency II Directive and exempt the third-country group from group supervision at the ultimate level of the European Union on the basis of Article 261 of the Solvency II Directive.

b. EIOPA resolution

In EIOPA's view, a case by case waiver is the only way to reconcile Article 215 of the Solvency II Directive read in conjunction with Recital 99 of the Solvency II Directive, according to which "Group supervision should apply in any case at the level of the ultimate parent undertaking which has its head office in the Community" with Article 261 of the Solvency II Directive, which provides that "In the event of equivalent supervision referred to in Article 260 of the Solvency II Directive, Member States shall rely on the equivalent group supervision exercised by the third-country supervisory authorities, in accordance with paragraph 2." The above mentioned paragraph requires the application of Articles 247 to 258 mutatis mutandis to the cooperation with third-country supervisory authorities and the criteria regarding the cooperation with the third-country group supervisor were introduced to comply with the above mentioned provisions of the Solvency II Directive.

The Guideline was amended to reflect the two principles set out in Article 215 and Recital 99 on the one hand in the first paragraph, and the exception created by Article 261 on the second hand in the following paragraphs. The three criteria were further specified to clarify the underlying requirements and the words “at least” deleted to form a close list of criteria. A reference was made to the acting group supervisor as defined in Article 260 of the Solvency II Directive and to groups outside the EEA subject to an equivalent third country group supervision, to clarify the addressee and the scope of Guideline 5.

3. Choice of the method of consolidation and assessment of intra-group transactions

a. Summary of the problem

Stakeholders made different comments showing that the Guideline was not well understood.

b. EIOPA resolution

The Guideline was redrafted. Its aim is to clarify Article 328(1)(e) of the Implementing Measures: it aims at specifying that when deciding whether the exclusive application of method 1 is not appropriate, the group supervisor should consider the presence of intra-group transactions between the related undertaking being assessed for D&A and all other entities in the scope of the group solvency calculation.

4. Notional SCR and MCR for an insurance holding company and a mixed financial holding company

a. Summary of the problem

Stakeholders believe that the Solvency II Directive doesn't require insurance holding companies and mixed financial holding companies to have a notional SCR (or MCR when contributing to the floor of the group SCR). This could impact the diversification effect.

b. EIOPA resolution

Indeed the Solvency II Directive requires insurance holding companies and mixed financial holding companies to be treated as insurance undertakings in respect of SCR and own-funds. However, EIOPA agrees that the requirement of a notional SCR would not be fully consistent with the Solvency II Directive and therefore has amended its Guidelines.

5. Treatment of minority interests for covering the group solvency capital requirement

a. Summary of the problem

Some stakeholders don't agree with the treatment of minority interests proposed in Guideline 18. They believe that minority interests are to be treated in the same way than any other non-available own fund item to cover the group SCR. As a consequence, non-available own funds as well as minority interests could be available to the group own funds up to the contribution of the subsidiary to the group SCR.

They provided numerical examples. Other stakeholders agree with the approach proposed in the Guideline.

b. EIOPA resolution

EIOPA disagrees with this first reading of Article 330 of the Implementing Measures. The treatment of minority interests is specified in paragraph 4 of the previous article, as different to the treatment of other non-available own funds items which is specified in paragraph 3. Therefore, the treatment of minority interests is different: they shall be considered non-available in any case. Two numerical examples have been provided in the explanatory text.

6. Treatment of ring-fenced funds and matching adjustment portfolios

a. Summary of the problem

Stakeholders made two main comments. According to the first comment, this Guideline prevents diversification between matching adjustment funds and the remainder of the business, which is inconsistent with the Implementing Measures that leave this possibility open when using an internal model. According to the second comment, there is no need for further guidance in addition to the provisions of the Implementing Measures at individual level.

b. EIOPA resolution

As regard the first comment, the Guideline and explanatory text have been amended and there is now a reference to the Guidelines on ring-fenced funds. Anyway there is no inconsistency with the Implementing measures since the restrictions to diversification effects are to be taken into account also when using the Internal Model. As regard the second comment, EIOPA is convinced of the added value, as the guidance at solo level doesn't cover all the group specificities (for instance the treatment of intra-group transactions, or the treatment of ring-fenced funds in non-EEA subsidiaries in non-equivalent regime). The Solvency II Directive requires the solo provisions to be applied *mutatis mutandis* at group level. This Guideline elaborates on how provisions at individual level should be applied at group level.

7. Reconciliation reserve

a. Summary of the problem

Some stakeholders disagree with the treatment of the reconciliation reserve proposed in the Guidelines. They argue that the reconciliation reserve is a basic own fund item both at solo and group level. They believe that in many cases, own funds items at group level will be the sum of solo own funds items. As such, they reject any adjustment at group level.

b. EIOPA resolution

EIOPA believes that there are specificities at group level that need to be reflected in the determination of the reconciliation reserve. The Guideline and the explanatory text have been modified to make those specificities clearer.

8. Assessment of the deviation when imposing a capital add-on at group level

a. Summary of the problem

Some stakeholders believe that this Guideline goes beyond Article 232 of the Solvency II Directive, which states that a capital add-on might be necessary at group level, when a capital add-on has been imposed at individual level. There is no mention of the possibility to reverse this reasoning.

b. EIOPA resolution

The comment of the stakeholders was partially agreed and the Guideline modified in order to clarify that it refers to the situation before imposing a capital add-on at group level.

General nature of the participants to the Public

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

Respondents can be classified into four main categories: European trade, insurance, or actuarial associations; national insurance or actuarial associations, (re)insurance groups or undertakings, and other parties such as consultants and lawyers.

IRSG opinion

The IRSG opinion on the draft set 1 of the Solvency II Guidelines on Pillar 1 and Internal Models, as well as the particular comments on these Guidelines, can be consulted on EIOPA's website⁴.

Comments on the Impact Assessment

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.

⁴ <https://eiopa.europa.eu/about-eiopa/organisation/stakeholder-groups/sgs-opinion-feedback/index.html>

Annex: Guidelines

1. Guidelines on group solvency

Introduction

- 1.1. These Guidelines are drafted according to Article 16 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (hereinafter "EIOPA Regulation")⁵.
- 1.2. The Guidelines relate to Articles 212 to 235 and Articles 261 to 263 of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (hereinafter "Solvency II Directive")⁶.
- 1.3. These Guidelines are addressed to supervisory authorities under Solvency II.
- 1.4. The Guidelines on group solvency calculation aim at specifying and harmonising the requirements on the calculation of group solvency.
- 1.5. The Guidelines apply to all the methods of group solvency calculation unless otherwise specified. When relevant, the standard formula or the internal model will be specified in the Guidelines.
- 1.6. The Guidelines provide guidance on the treatment of EEA groups in the context of Articles 215 to 217 of the Solvency II Directive.
- 1.7. When the group is allowed to use method 2 for the purpose of calculating the group solvency and provided that the Member State has implemented the option set out in paragraph 1 of Article 227 of the Solvency II Directive, the local solvency capital requirements and eligible own funds as laid down by the equivalent third-country can be used.
- 1.8. If not defined in these Guidelines the terms have the meaning defined in the legal acts referred to in the introduction.
- 1.9. The Guidelines shall apply from 1 April 2015.

⁵ OJ L 331, 15.12.2010, p. 48–83

⁶ OJ L 335, 17.12.2009, p. 1-155

Guideline 1 – Scope of the group for the group solvency calculation

1.10. The participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company responsible for calculating the group solvency should ensure that they cover all risks and related undertakings belonging to the group, unless otherwise excluded in Article 214(2) of the Solvency II Directive.

Guideline 2 - Consolidation process

1.11. The participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should provide guidance to all related undertakings on how to prepare data for the purpose of calculating the group solvency. They should provide the necessary instructions for the preparation of consolidated, combined or aggregated data depending on the method of calculation used. They should ensure that their instructions are applied adequately and homogeneously within the group with respect to the recognition and valuation of balance sheet items as well as the inclusion and treatment of related undertakings.

Guideline 3 - Assessment of significant and dominant influence

1.12. When determining the scope of the group, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should ensure that any decision made by the group supervisor with regard to the level of influence effectively exercised by any undertaking over another undertaking is being implemented.

Guideline 4 – Case of application of group supervision

1.13. Since the four cases of application of group supervision referred to in Article 213(2)(a) to (d) of the Solvency II Directive are not mutually exclusive, supervisory authorities should consider applying the different cases of group supervision prescribed under this Article within the same group.

Guideline 5 - Parent insurance or reinsurance undertaking, insurance holding company or mixed financial holding company headquartered in a third country

1.14. According to Article 215 of the Solvency II Directive, where a subgroup referred to in Article 213(2)(a) and (b) of the Solvency II Directive exists, the acting group supervisor as defined in Article 260 of the Solvency II Directive, after consulting with other supervisory authorities concerned, should ensure that group supervision applies by default at the level of the ultimate parent undertaking in the European Union.

1.15. However, where the parent insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company is headquartered outside the EEA and is subject to an equivalent third country group supervision,

the acting group supervisor as defined in Article 260 of the Solvency II Directive should rely on the group supervision exercised by the third-country supervisory authorities, according to Article 261 of the Solvency II Directive, and exempt the third-country group from group supervision at the ultimate level of the European Union on a case-by-case basis, where this would result in a more efficient supervision of the group and would not impair the supervisory activities of the supervisory authorities concerned in respect of their individual responsibilities.

- 1.16. After consulting with other supervisory authorities concerned, the acting group supervisor as defined in Article 260 of the Solvency II Directive should consider a more efficient group supervision as achieved when the following criteria are met:
- (a) the worldwide group supervision allows for a robust assessment of the risks to which the EEA subgroup and its entities are exposed, considering the structure of the group, the nature, scale and complexity of the risks and the capital allocation within the group;
 - (b) the cooperation currently in place between the third-country group supervisor and EEA supervisory authorities for the group concerned is structured and well-managed through regular meetings and appropriate exchange of information within a college of supervisors to which the EEA supervisory authorities and EIOPA are invited;
 - (c) an annual work plan, including joint on-site examinations, is agreed upon in these regular meetings by the supervisory authorities involved in the supervision of the group.
- 1.17. Where the parent insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company is headquartered outside the EEA and is not subject to an equivalent third country supervision, group solvency supervision should be applied at the level of the ultimate parent undertaking in the European Union where a group, as defined by Article 213(2) (a) or (b) of the Solvency II Directive, exists. Where such group does not exist, the supervisory authorities should decide whether to require, by virtue of Article 262(2) of the Solvency II Directive, the establishment of an insurance holding company or a mixed financial holding company which has its head office in the European Union and subject this EEA group to group supervision and group solvency calculation.

Guideline 6 - Parent undertaking is a mixed-activity insurance holding company

- 1.18. Where the parent undertaking is a mixed-activity insurance holding company, the group solvency calculation should apply to any part of the group satisfying the criteria of Article 213(2)(a)(b) or (c) of the Solvency II Directive, rather than to the mixed-activity insurance holding company.

Guideline 7 – Application of the method of calculation

1.19. For the purpose of calculating the group solvency, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should consider the same scope of the group as determined in Guideline 1, irrespective of whether calculation method 1, calculation method 2 or a combination of both methods is used.

Guideline 8 - Choice of the method of calculation and assessment of the intra-group transactions

1.20. When deciding whether the exclusive application of method 1 is not appropriate according to Article 328(1)(e) of the Implementing Measures, the group supervisor should consider the presence of intra-group transactions between the related undertaking being assessed for deduction and aggregation and all other entities in the scope of the group solvency calculation.

Guideline 9 - Proportional share

1.21. Where a related undertaking is linked with another undertaking by a relationship as set out in Article 12(1) of Directive 83/349/EEC, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should determine the proportional share to be used when calculating the group solvency, irrespective of the choice of the calculation method.

1.22. By default, a proportional share of 100% should be used. Where a group seeks to use another percentage, it should explain to the group supervisor why it is appropriate. After consulting the other supervisory authorities concerned and the group itself, the group supervisor should decide on the appropriateness of the proportional share chosen by the group.

1.23. When calculating the group solvency according to method 1, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should determine the proportional share it holds in its related undertakings by taking:

- (a) 100% when including a subsidiary according to Article 335(1)(a) and (b) of the Implementing Measures, unless otherwise decided in accordance with Guideline 10;
- (b) the percentage used for the establishment of the consolidated accounts, when including undertakings according to Article 335(1)(c) of the Implementing Measures;
- (c) the proportion of the subscribed capital that is held, directly or indirectly, by the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company, when including related undertakings according to Article 335(1)(e) of the Implementing Measures.

Guideline 10 - Criteria for the recognition of the solvency deficit of a subsidiary on a proportional basis

- 1.24. In order to prove that the responsibility of the parent undertaking is strictly limited to the share of capital of the insurance or reinsurance subsidiary as envisaged in Article 221(1) of the Solvency II Directive, the parent undertaking should provide evidence to the group supervisor that the following criteria are met:
- (a) no profit and loss transfer agreement and no guarantees, net worth maintenance agreements or other agreements of the parent undertaking or any other related undertaking providing financial support are in place;
 - (b) the investment in the subsidiary is not considered as a strategic investment for the parent undertaking;
 - (c) the parent undertaking does not benefit of any advantage from its participation in the subsidiary, where such advantage could take the form of intra-group transactions such as loans, reinsurance agreements or service agreements;
 - (d) the subsidiary is not a core component of the group's business model, in particular regarding product offering, client base, underwriting, distribution, investment strategy and management; furthermore it is not operating under the same name or brand, and there are no interlocking responsibilities at the level of the group senior management;
 - (e) a written agreement between the parent undertaking and the subsidiary explicitly limits the support of the parent undertaking in case of a solvency deficit to the parent undertaking's share in the capital of that subsidiary. In addition, the subsidiary should have a strategy in place to resolve the solvency deficit, such as guarantees from minority shareholders.
- 1.25. Where a subsidiary is included in the scope of the internal model to calculate the group solvency capital requirement, the group supervisor should not allow the parent undertaking to take into account the solvency deficit of the subsidiary on a proportional basis.
- 1.26. The group supervisor should assess such criteria, after consulting the other supervisory authorities concerned and the group itself, on a case-by-case basis, taking into account the specific features of the group.
- 1.27. The status of strictly limited responsibility of the parent undertaking should be subject to an annual review by the group supervisor.
- 1.28. The parent undertaking and the subsidiary should disclose the positive decision of the group supervisor that allows the recognition of the solvency deficit on a proportional basis in order to inform policyholders and investors, as material information in the capital management section of the group and individual Solvency and Financial Condition Report.

- 1.29. When preparing the consolidated data using method 1, the own funds and the solvency capital requirement of the subsidiary should be calculated on a proportional basis instead of applying a full consolidation.
- 1.30. When preparing the aggregated data using method 2, the own funds and the solvency capital requirement of the subsidiary should be calculated using the proportional share of that subsidiary, also in the case of a solvency deficit.

Guideline 11 - Treatment of specific related undertakings for group solvency calculation

- 1.31. When the undertakings of other financial sectors form a group subject to sectoral capital requirement, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should consider using the solvency requirements of such a group instead of the sum of the requirements of each individual undertaking when calculating the group solvency.

Guideline 12 - Contribution of a subsidiary to the group solvency capital requirement

- 1.32. When using method 1 and when the standard formula is applied, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should calculate the contribution of a subsidiary to the group solvency capital requirement according to Technical Annex 1.
- 1.33. For insurance or reinsurance undertakings, intermediate insurance holding company or intermediate mixed financial holding company consolidated according to Article 335 of the Implementing Measures, the contribution of the individual solvency capital requirement should be calculated taking into account the proportional share used for the determination of the consolidated data.
- 1.34. When the consolidated group solvency capital requirement is calculated on the basis of an internal model, the contribution of a subsidiary to the group solvency capital requirement should be the product of the solvency capital requirement of that subsidiary and the percentage corresponding to the diversification effects attributed to that subsidiary according to the internal model.
- 1.35. When using method 2, the contribution of a subsidiary to the group solvency capital requirement should be the proportional share of the individual solvency capital requirement, since no diversification effects at group level are taken into account.

Guideline 13 - Availability of own funds at group level of related undertakings that are not subsidiaries

- 1.36. The participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should assess the availability

of own funds, according to Article 222(2) of the Solvency II Directive and to Article 330 of the Implementing Measures, of related insurance or reinsurance undertakings, intermediate insurance holding companies and intermediate mixed financial holding companies that are not subsidiaries and for third-country related insurance or reinsurance undertakings, intermediate insurance holding companies and intermediate mixed financial holding companies that are not subsidiaries, when the own-fund items of these undertakings materially affect the amount of group own funds or the group solvency. They should explain to the group supervisor how the assessment was made.

1.37. The group supervisor should review, in close cooperation with the other supervisory authorities involved, the assessment made by the group.

Guideline 14 - Treatment of minority interests for covering the group solvency capital requirement

1.38. The participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should calculate the amount of minority interests in the eligible own funds, to be deducted from the group own funds, for each subsidiary, in the following order:

1. calculate the eligible own funds exceeding the contribution of the subsidiary to the group solvency capital requirement;
2. identify and deduct the amount of non-available own funds exceeding the contribution of the subsidiary to the group solvency capital requirement from the eligible own funds calculated in step 1;
3. calculate the part of minority interests to be deducted from the group own funds by multiplying the minority share by the result of step 2.

Guideline 15 - Treatment of ring-fenced funds and matching adjustment portfolios for covering the group solvency capital requirement

1.39. For all undertakings included in the group solvency calculation using method 1 and for undertakings in non-equivalent third countries included in the group solvency calculation using method 2, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should apply the principles for ring-fenced funds and matching adjustment portfolios as set out in Article 81 of the Implementing Measures and Article 217 of the Implementing Measures.

1.40. For undertakings in equivalent third countries included in the group solvency calculation using method 2, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should identify any restriction to the undertakings' own funds due to ring-fencing of assets or liabilities or similar arrangements, in accordance with the equivalent solvency regime. These restrictions should be considered in the group solvency calculation as part of the own funds availability assessment at the group level.

- 1.41. When calculating the group solvency capital requirement using method 1, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should not eliminate intra-group transactions between the assets and liabilities associated with each material ring-fenced fund or with each matching adjustment portfolio and the remaining consolidated data. The group solvency capital requirement calculated on the basis of the consolidated data should be the sum of:
- (a) the notional solvency capital requirement for each material ring-fenced fund and each matching adjustment portfolio, both calculated with the assets and liabilities of the ring-fenced fund gross of intra-group transactions; and
 - (b) the (diversified) group solvency capital requirement for the remaining consolidated data (excluding assets and liabilities of all material ring-fenced funds, but including the assets and liabilities of all non-material ring-fenced funds). When calculating the group solvency capital requirements for the remaining consolidated data, intra-group transactions should be eliminated, while intra-group transactions between the remaining consolidated data and the material ring-fenced funds should not be eliminated.
- 1.42. Where a group uses an internal model to calculate the group Solvency Capital Requirement (hereinafter "SCR"), it should follow the guidance set out in Guideline 13 of the Guidelines on ring-fenced funds.
- 1.43. The consolidated data used to calculate the group own funds should be net of intra-group transactions as set out in Article 335(3) of the Implementing Measures. Therefore, all intra-group transactions between material ring-fenced funds and the remaining consolidated data should be eliminated for the calculation of the group own funds.
- 1.44. For each material ring-fenced funds and for each matching adjustment portfolio identified within the consolidated data under method 1, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should calculate the restricted own-fund items using the same assets and liabilities of the ring-fenced fund used to calculate its notional solvency capital requirement or matching adjustment portfolio as described above, i.e. gross of intra-group transactions.
- 1.45. Therefore, the total restricted own funds within the ring-fenced fund or matching adjustment portfolio to be deducted from the group reconciliation reserve should be the sum of all material restricted own funds identified in EEA insurance or reinsurance undertakings and the restricted own funds identified in any non-EEA insurance and reinsurance undertaking in the scope of the consolidated data.

Guideline 16 - Adjustments related to non-available own funds for the calculation of group eligible own funds

- 1.46. When using method 1, the participating insurance and reinsurance undertaking, the insurance holding company or the mixed financial holding company should deduct the part of the own funds of related undertakings not available for covering the group solvency capital requirement from the relevant own-funds items and the relevant tiers of the consolidated group own funds.
- 1.47. They should follow the process described below for calculating eligible group own funds to cover the group solvency capital requirement and the minimum consolidated group solvency capital requirement:
- (a) the group own funds are calculated on the basis of the consolidated data, as referred to in Article 335(a) to (f) of the Implementing Measures, net of any intra-group transactions;
 - (b) the group own funds are classified into tiers;
 - (c) the available group own funds are calculated net of group adjustments relevant at group level;
 - (d) the eligible own funds are subject to the same tiering limits applying at individual level in order to cover the group solvency capital requirement and the minimum consolidated group solvency capital requirement.
- 1.48. When using method 2, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should use the sum of the eligible own funds of related undertakings after deducting non-available own funds at group level.
- 1.49. For both calculation methods, where the non-available own funds have been classified into more than one tier, the order in which they are deducted from the different tiers should be explained to the group supervisor.

Guideline 17 - Process for assessing non-available own funds by the group supervisor

- 1.50. In the case of a cross-border group, the group supervisor should discuss its assessment of non-available own funds with the other supervisory authorities concerned within the college and with the participating insurance and reinsurance undertaking, the insurance holding company or the mixed financial holding company. The process should be as follows:
- (a) in its Regular Supervisory Report, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should provide the group supervisor with its assessment of non-available own funds for all the undertakings included in the calculation of the group solvency. They should also explain the adjustments made in order to deduct non-available own funds;

- (b) the group supervisor should discuss its assessment of non-available own funds within the college as well as with the group;
 - (c) each supervisory authority should provide its assessment of the availability at group level of the own funds related to the supervised undertakings;
 - (d) the group supervisor should discuss with the other supervisory authorities concerned whether the availability of own funds changes when assessing it at individual or group level.
- 1.51. In the case of a national group, the group supervisor should discuss its assessment of non-available own funds with the participating insurance and reinsurance undertaking, the insurance holding company or the mixed financial holding company.
- 1.52. The process should be as follows:
- (a) in its Regular Supervisory Report, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should provide the group supervisor with its assessment of non-available own funds for all the undertakings included in the calculation of the group solvency. They should also explain the adjustments made in order to deduct non-available own funds;
 - (b) the group supervisor should discuss its assessment of non-available own funds with the group.

Guideline 18 - Reconciliation reserve at group level

- 1.53. The participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should ensure that the reconciliation reserve at group level is based on Article 70 of the Implementing Measures. In particular, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company at group level should take into account:
- (a) the value of own shares held by the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company and the related undertakings;
 - (b) the restricted own-fund items that exceed the notional solvency capital requirement in the case of ring fenced funds and matching adjustment portfolios at group level.

Guideline 19 - Determination of the consolidated data for the group solvency calculation

- 1.54. The consolidated data should be calculated on the basis of the consolidated accounts that have been valued according to Solvency II Directive rules with respect to the recognition and valuation of balance sheet items as well as the inclusion and treatment of the related undertakings.

Guideline 20 - Determination of the currency for the purpose of the currency risk calculation

1.55. The capital requirement for the currency risk should take into account any relevant risk mitigation technique which meets the requirements set out in Articles 209 to 215 of the Implementing Measures. Where the consolidated solvency capital requirement is calculated using the standard formula, all the investments denominated in a currency pegged to the currency of the consolidated accounts should be taken into account in accordance with Article 188 of the Implementing Measures at group level as well.

Guideline 21 - Minimum consolidated group solvency capital requirement (floor to the group solvency capital requirement)

1.56. In the determination of the minimum consolidated group solvency capital requirement, when method 1 is used, exclusively or in combination with method 2, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should use the following capital requirements:

- (a) the minimum capital requirements of the EEA authorised insurance and reinsurance undertakings included in the scope of method 1;
- (b) the local capital requirements, at which the authorisation would be withdrawn, for third country insurance and reinsurance undertakings included in the scope of method 1, independently of any equivalence finding.

Guideline 22 – Minimum consolidated group solvency capital requirement

1.57. In case method 1 is used, exclusively or in combination with method 2, when the minimum consolidated group solvency capital requirement is no longer complied with, or when there is a risk of non-compliance in the following three months, the supervisory measures set out in Article 139(1) and (2) of the Solvency II Directive for non-compliance with the individual minimum capital requirement should apply at group level.

Guideline 23 – Treatment of group specific risks

1.58. The participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should calculate the group solvency capital requirement taking into account all quantifiable, material specific risks existing at group level, which may impact the solvency and financial position of the group. If the group specific risks are material, the group should use group-specific parameters or a partial internal model for the calculation of the solvency capital requirement corresponding to the group-specific risks.

1.59. These risks are:

- (a) the risks which are also present at individual level, but whose impact is significantly different (which behave in a different way) at group level; or
- (b) the risks only present at group level.

1.60. The group solvency capital requirement for the quantifiable part of these risks should be calculated as follows:

- (a) in the case described in (a) by applying different calibrations to the relevant risk modules or sub-modules than those used at the individual level, or by applying appropriate scenarios;
- (b) in the case of (b) by applying appropriate scenarios.

1.61. If the group is unable to reflect the risk profile in the group solvency capital requirement due to the specific risks existing at group level as described above, the group supervisor after consulting the other supervisory authorities concerned, should be able to impose a group capital add-on, as provided for in Articles 232(a) and 233(6) of the Solvency II Directive, if appropriate.

Guideline 24 - Risk profile capital add-on when using method 1

1.62. Where a risk profile capital add-on has been set on a related undertaking, and that related undertaking is consolidated according to method 1, the group supervisor should assess at group level the significance of the deviation of the risk profile from the assumptions underlying the solvency capital requirement, as calculated using the standard formula or an internal model, and should consider the need for imposing a capital add-on on the group solvency capital requirement.

Guideline 25 – Governance capital add-on when using method 1

1.63. Where a governance capital add-on has been set on a related undertaking of a group, and that related undertaking is consolidated according to method 1, the group supervisor should assess at group level the significance of the deviation from the standards laid down in Articles 41 to 49 of the Solvency II Directive, and should consider the need for imposing a capital add-on on the group solvency capital requirement.

Guideline 26 - Assessment of the deviation at the individual level, when a significant deviation has been identified at group level

1.64. When a significant deviation has been identified at group level, the supervisory authority of a related undertaking should assess whether the deviation stems from the risk profile or from the system of governance at the level of the related undertaking.

1.65. If so, the supervisory authority concerned should assess the significance of the deviation from the risk profile or from the system of governance standards, and

should consider the need for imposing a capital add-on at the level of the related undertaking.

Guideline 27 – Capital add-on when using method 2

1.66. Where all or part of the group solvency capital requirement is calculated using method 2, any risk profile capital add-on set on a related undertaking that is included under method 2, should be added to the group solvency capital requirement for the proportional share as referred to in Article 221(1)(b) of the Solvency II Directive. The double counting of the same deviation from the risk profile at individual and group level should be avoided.

Compliance and Reporting Rules

1.67. 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.

1.68. Competent authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or supervisory framework in an appropriate manner.

1.69. 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.

1.70. 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

1.71. The present Guidelines shall be subject to a review by EIOPA.

Technical Annex 1

Calculation of the contribution of the insurance and reinsurance subsidiary to group solvency capital requirement ("SCR") [Guidelines 12, 14 and 15]

$$\text{Contr}_j = \text{SCR}_j \times \text{SCR}_{\text{diversified}} / \sum_i \text{SCR}_{\text{isolo}}$$

Where:

- SCR_j is the SCR at individual entity level of the undertaking j ;
- $\text{SCR}_{\text{diversified}}$ = SCR calculated in accordance to Article 336(a) of the Implementing Measures;
- $\text{SCR}_{\text{isolo}}$ is the SCR at individual entity level of the participating undertaking and each related insurance or reinsurance undertaking and third-country insurance and reinsurance undertaking included in the calculation of the $\text{SCR}_{\text{diversified}}$;
- the ratio is the proportional adjustment due to the recognition of diversification effects at group level.

For undertakings included in consolidated data with proportional consolidation, according to Article 335(1)(c) of the Implementing Measures, only the proportional share of the SCR at individual entity level is included in the above calculation.

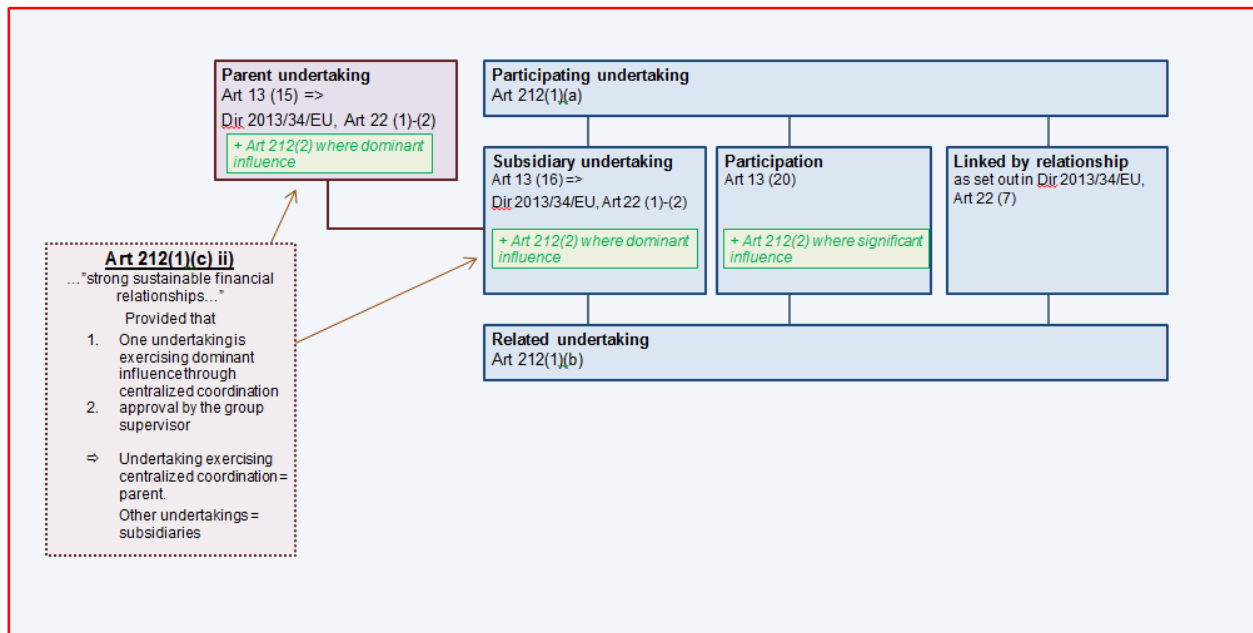
2. Explanatory text

Guideline 1 - Scope of the group for the group solvency calculation

The participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company responsible for calculating the group solvency should ensure that they cover all risks and related undertakings belonging to the group unless otherwise excluded in Article 214(2) of the Solvency II Directive.

- 2.1. Once the scope of the group for the purpose of calculating the group solvency has been identified in accordance with the definition of the group in Article 212 of the Solvency II Directive, taking into consideration any entities excluded from the scope in accordance with Article 214(2) of the Solvency II Directive, the cases of application of group supervision in Article 213 of the Solvency II Directive and the supervision of group solvency in Article 218 of the Solvency II Directive, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company responsible for calculating the group solvency need to ensure that all related undertakings and all risks within the group are included in the group solvency calculation.
- 2.2. According to Article 212(1)(c) of the Solvency II Directive, a group consists of a participating undertaking, its subsidiaries and related undertakings.
- 2.3. Article 212(2) of the Solvency II Directive gives to the supervisory authorities the possibility to consider:
 - (a) as a parent undertaking any undertaking which effectively exercises a dominant influence over another undertaking;
 - (b) as a subsidiary any undertaking over which a parent undertaking effectively exercises a dominant influence;
 - (c) as a participation the holding, directly or indirectly, of voting rights or capital in an undertaking over which a significant influence is effectively exercised.
- 2.4. Where an undertaking is linked with another undertaking by a relationship as referred to in Article 22(7) of Directive 2013/34/EU, this undertaking is not considered a subsidiary.
- 2.5. The illustration below shows all the undertakings included in the scope of a group according to Article 212(1)(c) of the Solvency II Directive.

GROUP, Art 212 (1)(c)



- 2.6. Article 213(2) of the Solvency II Directive sets out four different cases of application of group supervision under Solvency II. Full group supervision is applied to groups defined under Article 213(2) (a) and (b) of the Solvency II Directive. For groups defined under Article 213(2) (c) of the Solvency II Directive, the application of group supervision depends on a finding of equivalence, as set out in Articles 260 to 263 of the Solvency II Directive. Group supervision is limited to the supervision of intra-group transactions as regards groups defined under Article 213(2)(d) of the Solvency II Directive.
- 2.7. In the cases of application of Article 213(2)(b) and (c) of the Solvency II Directive, when there is an insurance holding company or a mixed financial holding company that is a parent undertaking of at least one insurance or reinsurance undertaking, there is a group for the purpose of calculating the group solvency.
- 2.8. Insurance holding companies and mixed financial holding companies are treated as insurance undertakings for the purpose of the group solvency calculation.
- 2.9. Group supervision established at a national level pursuant to Article 216 of the Solvency II Directive includes all related undertakings within the scope of the group as referred to in Article 212 of the Solvency II Directive irrespectively of their location; whether they are based in the same Member State or not.

Guideline 2 - Consolidation process

The participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should provide guidance to all related undertakings on how to prepare data for the purpose of calculating the group solvency. They should provide the necessary instructions for the preparation of consolidated, combined or aggregated data depending on the method of calculation used. They should ensure that their instructions are applied adequately and homogeneously within the group with respect to the recognition and valuation of balance sheet items as well as the inclusion and treatment of related undertakings.

2.10. The participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company reports to the group supervisor how the consolidated, aggregated or combined data (depending on the method of calculation used) have been prepared as well as the processes put in place to prepare it.

Guideline 3 - Assessment of significant and dominant influence

When determining the scope of the group, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should ensure that any decision made by the group supervisor with regard to the level of influence effectively exercised by any undertaking over another undertaking is being implemented.

2.11. The participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company assesses the level of influence that any undertaking effectively exercises over the other undertakings. This assessment is consistent with the assessment made for the preparation of the consolidated accounts in most cases.

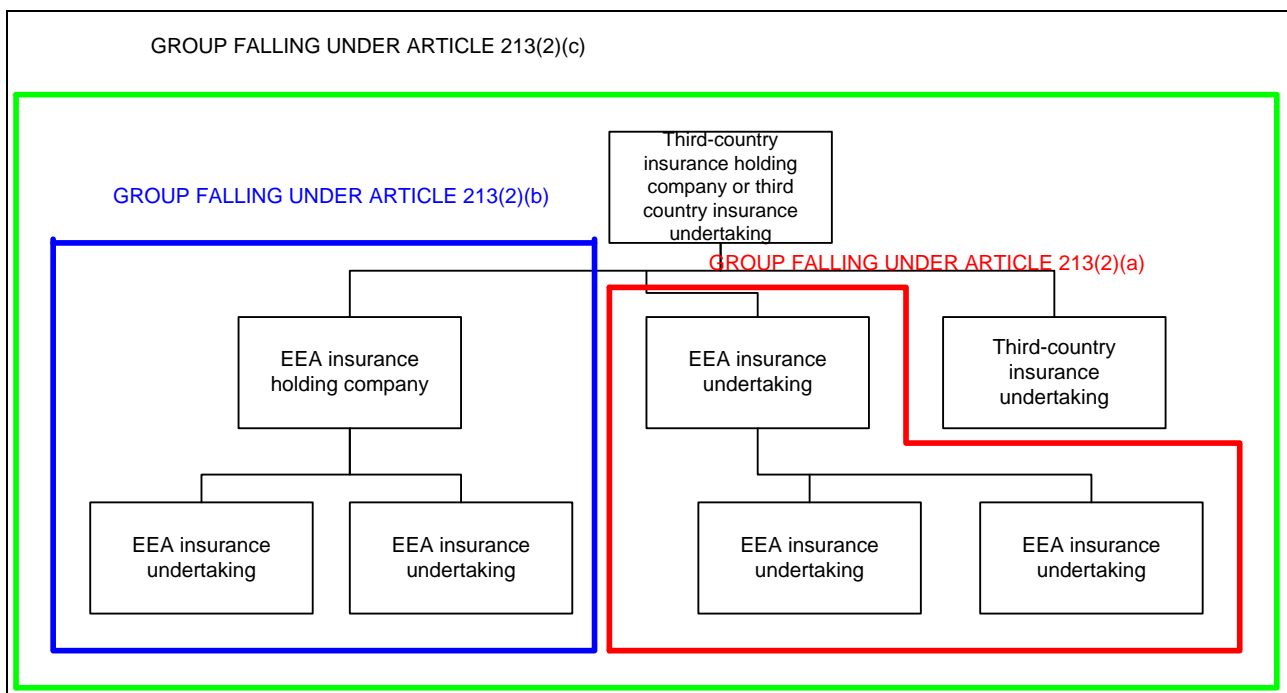
2.12. Significant and dominant influence is usually evidenced by one or several criteria indicated in Guideline 1 of the Guidelines on "treatment of related undertakings, including participations".

2.13. If the group supervisor, in cooperation with other supervisory authorities in the college and after consulting the group, assesses that the degree of influence exercised over an undertaking, for the purpose of calculating the group solvency, is different from the assessment of the group, it informs the participating insurance and reinsurance undertaking, the insurance holding company or the mixed financial holding company of its assessment.

Guideline 4 – Cases of application of group supervision

Since the four cases of application of group supervision referred to in Article 213 (2) (a) to (d) of the Solvency II Directive are not mutually exclusive, supervisory authorities should consider applying the different cases of group supervision prescribed under this Article within the same group.

2.14. Depending on the structure of the group, the different cases of group supervision as prescribed under Article 213(2) of the Solvency II Directive may be applicable within the same group. Situations set out in Article 213(2) (a) to (d) of the Solvency II Directive are not mutually exclusive and may apply in an overlapping way.



Guideline 5 - Parent insurance or reinsurance undertaking, insurance holding company or mixed financial holding company headquartered in a third country

According to Article 215 of the Solvency II Directive, where a subgroup referred to in Article 213(2)(a) and (b) of the Solvency II Directive exists, the acting group supervisor as defined in Article 260 of the Solvency II Directive, after consulting with other supervisory authorities concerned, should ensure that group supervision applies by default at the level of the ultimate parent undertaking in the European Union.

However, where the parent insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company is headquartered outside the EEA and is subject to an equivalent third country group supervision, the acting group supervisor as defined in Article 260 of the Solvency II Directive should rely on the group supervision exercised by the third-country supervisory authorities according to Article 261 of the Solvency II Directive and exempt the third-country group from group supervision at the ultimate level of the European Union on a case-by-case basis, where this would result in a more efficient supervision of the group and would not impair the supervisory activities of the supervisory authorities concerned in respect of their individual responsibilities.

After consulting with other supervisory authorities concerned, the acting group supervisor as defined in Article 260 of the Solvency II Directive should consider a more efficient group supervision as achieved when the following criteria are met:

- (a) the worldwide group supervision allows for a robust assessment of the risks to which the EEA subgroup and its entities are exposed, considering the structure of the group, the nature, scale and complexity of the risks and the capital allocation within the group;
- (b) the cooperation currently in place between the third-country group supervisor and EEA supervisory authorities for the group concerned is structured and well-managed through regular meetings and appropriate exchange of information within a college of supervisors to which the EEA supervisory authorities and EIOPA are invited;
- (c) an annual work plan, including joint on-site examinations, is agreed upon in these regular meetings by the supervisory authorities involved in the supervision of the group.

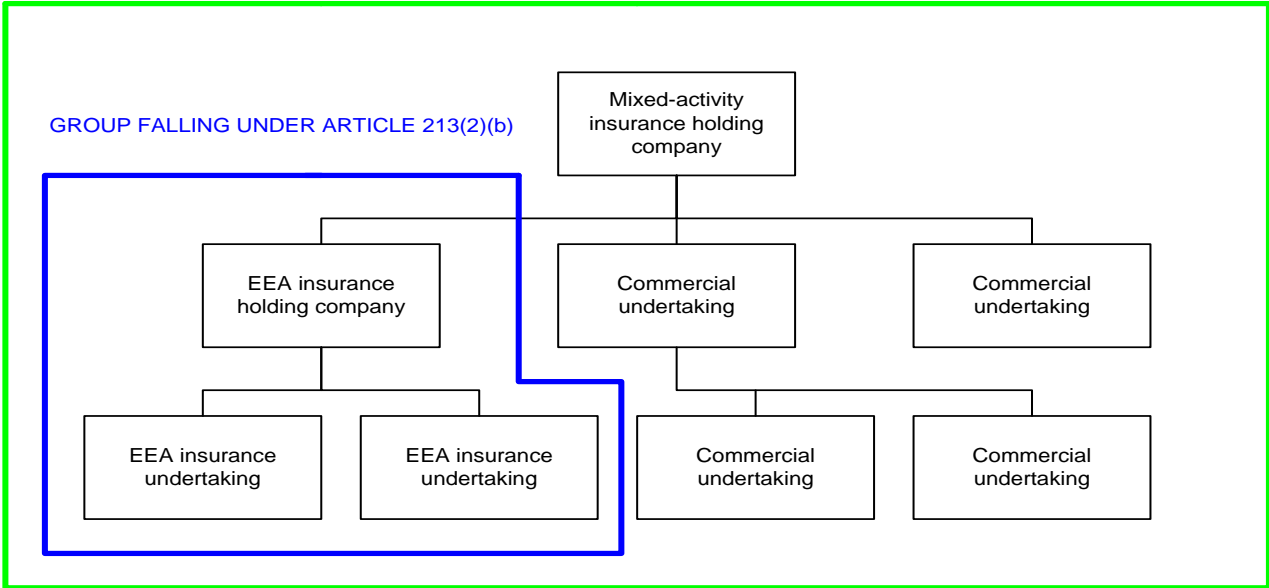
Where the parent insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company is headquartered outside the EEA and is not subject to an equivalent third country supervision, group solvency supervision should be applied at the level of the ultimate parent undertaking in the European Union where a group, as defined by Article 213(2)(a) or (b) of the Solvency II Directive, exists. Where such group does not exist, the supervisory authorities should decide whether to require, by virtue of Article 262(2) of the Solvency II Directive, the establishment of an insurance holding company or a mixed financial holding company which has its head office in the European Union and

subject this EEA group to group supervision and group solvency calculation.

Guideline 6 - Parent undertaking is a mixed-activity insurance holding company
Where the parent undertaking is a mixed-activity insurance holding company, the group solvency calculation should apply to any part of the group satisfying the criteria of 213 (2) (a), (b) or (c) of the Solvency II Directive, rather than to the mixed-activity insurance holding company.

2.15. More than one case of application of group supervision prescribed in Article 213(2) of the Solvency II Directive is applied to the same group headed by an insurance or reinsurance undertaking, an insurance holding company or a mixed financial holding company, the parent undertaking of which is a mixed-activity insurance holding company. In that case, group supervision including group solvency calculation is applied to the insurance group within the mixed-activity group and the supervision of intra-group transactions is applied to the mixed-activity group, in accordance with Article 265 of the Solvency II Directive.

GROUP FALLING UNDER ARTICLE 213(2)(d)



Guideline 7 – Application of the method of calculation
For the purpose of calculating the group solvency, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should consider the same scope of the group as determined in Guideline 1, irrespective of whether calculation method 1, calculation method 2 or a combination of both methods is used.

2.16. Irrespective of the method of calculation, all related undertakings belonging to the group are included in the group solvency calculation. This includes related undertakings in other financial sectors, both regulated and not regulated, special purpose vehicles⁷, ancillary services undertakings and any other related undertaking belonging to the group.

Guideline 8 - Choice of the method of calculation and assessment of the intra-group transactions

When deciding whether the exclusive application of method 1 is not appropriate according to Article 328(1)(e) of the Implementing Measures, the group supervisor should consider the presence of intra-group transactions between the related undertaking being assessed for deduction and aggregation and all other entities in the scope of the group solvency calculation.

2.17. Unless otherwise advised by the group supervisor, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company applies method 1 by default. On request of the group, or on its own initiative, the group supervisor assesses whether the exclusive application of method 1 is appropriate or not and communicates its decision to the group.

2.18. The group supervisor will carry out this assessment based on the list of criteria set out in Article 328 of the Implementing Measures. This Guideline aims at specifying which intra-group transactions of a related undertaking to consider when assessing whether method 2 or a combination of methods 1 and 2 can be used.

Guideline 9 - Proportional share

Where a related undertaking is linked with another undertaking by a relationship as set out in Article 12(1) of Directive 83/349/EEC, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should determine the proportional share to be used when calculating the group solvency, irrespective of the choice of the calculation method.

By default, a proportional share of 100% should be used. Where a group seeks to use another percentage, it should explain to the group supervisor why it is appropriate. After consulting the other supervisory authorities concerned and the group itself, the group supervisor should decide on the appropriateness of the proportional share chosen by the group.

When calculating the group solvency according to method 1, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should determine the proportional share it holds in its

⁷ These Guidelines, according to Article 335(1)(b) of the Implementing Measures, make reference to special purpose vehicles to which the participating undertaking or one of its subsidiaries has transferred risks and which are not excluded from the scope of the group solvency calculation pursuant to Article 329(3) of the Implementing Measures.

related undertakings by taking:

- (a) 100% when including a subsidiary according to Article 335(1)(a) and (b) of the Implementing Measures unless otherwise decided in accordance with Guideline 10;
- (b) the percentage used for the establishment of the consolidated accounts when including undertakings according to Article 335(1)(c) of the Implementing Measures;
- (c) the proportion of the subscribed capital that is held, directly or indirectly, by the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company when including related undertakings according to Article 335(1)(e) of the Implementing Measures.

- 2.19. The treatment of related undertakings in the group solvency calculation depends on the proportional share held in those related undertakings by the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company. Therefore groups are required to assess their proportional share in all related undertakings that are part of the group, irrespective of the choice of calculation method (method 1 or method 2).
- 2.20. This Guideline specifies what groups are expected to consider when determining the proportional share in related undertakings.
- 2.21. The proportional share is determined for the consolidated data and thus it is used to calculate the group solvency as well as other calculations such as the best estimate, the loss-absorbing capacity of technical provisions and deferred taxes and the minimum consolidated group Solvency Capital Requirement.
- 2.22. For undertakings included in the consolidated data according to Article 335(d) and (f) the group needs to follow Article 13 of the Implementing Measures. The treatment is the same as the treatment for these undertakings at individual entity level.

Guideline 10 - Criteria for the recognition of the solvency deficit of a subsidiary on a proportional basis

In order to prove that the responsibility of the parent undertaking is strictly limited to the share of capital of the insurance or reinsurance subsidiary as envisaged in Article 221(1) of the Solvency II Directive, the parent undertaking should provide evidence to the group supervisor that the following criteria are met:

- (a) no profit and loss transfer agreement and no guarantees, net worth maintenance agreements or other agreements of the parent undertaking or any other related undertaking providing financial support are in place;
- (b) the investment in the subsidiary is not considered as a strategic investment for the parent undertaking;
- (c) the parent undertaking does not benefit of any advantage from its participation

in the subsidiary where such advantage could take the form of intra-group transactions such as loans, reinsurance agreements, service agreements;

(d) the subsidiary is not a core component of the group's business model, in particular regarding product offering, client base, underwriting, distribution, investment strategy and management, furthermore it is not operating under the same name or brand, and there are no interlocking responsibilities at the level of the group senior management;

(e) a written agreement between the parent undertaking and the subsidiary explicitly limits the support of the parent undertaking in case of a solvency deficit to the parent undertaking's share in the capital of that subsidiary. In addition, the subsidiary should have a strategy in place to resolve the solvency deficit, such as guarantees from minority shareholders.

Where a subsidiary is included in the scope of the internal model to calculate the group solvency capital requirement, the group supervisor should not allow the parent undertaking to take into account the solvency deficit of the subsidiary on a proportional basis.

The group supervisor should assess such criteria, after consulting the other supervisory authorities concerned and the group itself, on a case-by-case basis, taking into account the specific features of the group.

The status of strictly limited responsibility of the parent undertaking should be subject to an annual review by the group supervisor.

The parent undertaking and the subsidiary should disclose the positive decision of the group supervisor that allows the recognition of the solvency deficit on a proportional basis in order to inform policyholders and investors, as material information in the capital management section of the group and individual Solvency and Financial Condition Report.

When preparing the consolidated data using method 1, the own funds and the solvency capital requirement of the subsidiary should be calculated on a proportional basis instead of applying a full consolidation.

When preparing the aggregated data using method 2, the own funds and the solvency capital requirement of the subsidiary should be calculated using the proportional share of that subsidiary, also in the case of a solvency deficit.

2.23. When assessing whether the parent undertaking's responsibility is strictly limited to the share of the capital in that subsidiary and therefore could be allowed to take into account the solvency deficit of that subsidiary on a proportional basis, several criteria have to be considered by the group supervisor. Proportional basis means the proportion of the subscribed capital held by the parent undertaking in the subsidiary.

2.24. The parent undertaking is expected to demonstrate to the group supervisor that the criteria set in this Guideline are met. The group supervisor is expected to consult the other supervisory authorities concerned and the group itself.

- 2.25. The possibility to include a subsidiary's solvency deficit on a proportional basis is expected to remain an exception to the general rule according to which 100% of subsidiaries' own funds and solvency capital requirement are included when there is a solvency deficit.
- 2.26. When the criteria set out in this Guideline are met, the group supervisor may allow the parent undertaking to include the subsidiary on a proportional basis in the group solvency calculation. This means:
- (a) When using method 1, the subsidiary is included in the consolidated data with the proportion of the subscribed capital held by the parent undertaking instead of being fully consolidated (i.e. same treatment as for undertakings referred to in Article 335(1)(d) of the Implementing Measures). The parent undertaking's responsibility is limited to the share of capital it holds. In the Solvency II group balance sheet this subsidiary will be reported as an asset balance sheet item, 'participation', instead of being fully consolidated line-by-line and the own funds will be part of the reconciliation reserve. There is no recognition of diversification benefits (in the solvency capital requirement calculation) since the proportion of the solvency capital requirement of the subsidiary included on a proportional basis is added to the other parts of the group solvency requirement and there is no recognition of minority interests in the own funds calculation.
 - (b) When using method 2, the own funds and the solvency capital requirement of the subsidiary will be calculated using the proportional share instead of 100%, including in case of a solvency deficit.

Guideline 11 - Treatment of specific related undertakings for group solvency calculation

When the undertakings of other financial sectors form a group subject to sectoral capital requirement, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should consider using the solvency requirements of such a group instead of the sum of the requirements of each individual undertaking when calculating the group solvency.

Guideline 12 - Contribution of a subsidiary to the group solvency capital requirement

When using method 1 and when the standard formula is applied, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should calculate the contribution of a subsidiary to the group solvency capital requirement according to Technical Annex 1.

For insurance or reinsurance undertakings, intermediate insurance holding company or intermediate mixed financial holding company consolidated according to Article 335 of the Implementing Measures, the contribution of the individual solvency capital requirement should be calculated taking into account the proportional share used for the determination of the consolidated data.

When the consolidated group solvency capital requirement is calculated on the basis of an internal model, the contribution of a subsidiary to the group solvency capital requirement should be the product of the solvency capital requirement of that subsidiary and the percentage corresponding to the diversification effects attributed to that subsidiary according to the internal model.

When using method 2, the contribution of a subsidiary to the group solvency capital requirement should be the proportional share of the individual solvency capital requirement, since no diversification effects at group level are taken into account.

- 2.27. When using method 1, the objective of the calculation of the contribution of a subsidiary to the group solvency capital requirement is to take into account the benefits of the diversification effects that arise at group level on its individual solvency capital requirement. When applying the standard formula, the calculation is made through a proxy tested during the QIS 5, based on the assumption that diversification benefits derive equally from each undertaking of the group.
- 2.28. In the sum of the individual solvency capital requirement (Σ SCR_{isolo}) neither ancillary services undertakings nor special purpose vehicles are included (even though they are included in the calculation of solvency capital requirement at the numerator of the ratio) because the calculation of a notional solvency capital requirement is not required for them, neither in the Solvency II Directive nor in the Implementing Measures. This may cause an overestimation of availability of individual own funds to cover the group solvency capital requirement.
- 2.29. Related undertakings of other financial sectors are not included in the calculation since both own funds and capital requirements follow the relevant sectoral rules.

Guideline 13 - Availability of own funds at group level of related undertakings that are not subsidiaries

The participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should assess the availability of own funds according to Article 222(2) of the Solvency II Directive and to Article 330 of the Implementing Measures of related insurance or reinsurance undertakings, intermediate insurance holding companies and intermediate mixed financial holding companies that are not subsidiaries and for third-country related insurance or reinsurance undertakings, intermediate insurance holding companies and intermediate mixed financial holding companies that are not subsidiaries, when the own-fund items of these undertakings materially affect the amount of group own funds or the group solvency. They should explain to the group supervisor how the assessment was made.

The group supervisor should review, in close cooperation with the other supervisory authorities involved, the assessment made by the group.

Guideline 14 - Treatment of minority interests for covering the group solvency capital requirement

The participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should calculate the amount of minority interests in the eligible own funds, to be deducted from the group own funds, for each subsidiary, in the following order:

1. calculate the eligible own funds exceeding the contribution of the subsidiary to the group solvency capital requirement;
2. identify and deduct the amount of non-available own funds exceeding the contribution of the subsidiary to the group solvency capital requirement from the eligible own funds calculated in step 1;
3. calculate the part of minority interests to be deducted from the group own funds by multiplying the minority share by the result of step 2.

2.30. In order to calculate the amount of own funds that cannot effectively be made available to cover the group solvency capital requirement (step 2), the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company are required to use the sum of the own funds as referred to in Article 222(2) and (3) of the Solvency II Directive and in Article 330 of the Implementing Measures for each related insurance or reinsurance undertaking, intermediate insurance holding company or intermediate mixed financial holding company.

2.31. Article 222(3) of the Solvency II Directive requires that own funds, which are not available (for example because the own funds are not fungible or transferable to the group), can only be included in the group solvency calculation to cover the group solvency capital requirement, up to the contribution of the related undertaking to the group solvency capital requirement.

- 2.32. The part of minority interests in the eligible own funds (step 3) that is not available for covering the group solvency capital requirement is calculated for each insurance or reinsurance undertaking, insurance holding company or mixed financial holding company after deducting non-available own funds as referred to in Article 222(2) of the Solvency II Directive and in Article 330 of the Implementing Measures from the excess of own funds.
- 2.33. According to Article 330(4)(a) of the Implementing Measures “any minority interest in a subsidiary exceeding the contribution of that subsidiary undertaking to the group Solvency Capital Requirement...” is not available to cover the group solvency capital requirement.
- 2.34. The amount to be excluded = $MI\%_i \times (OF_i - Contr_i)$
- Where:
- MI% is the percentage of the minority interests (the minority share);
 - OF is the eligible own funds of the subsidiary, after deduction of non-available own funds;
 - $Contr_i$ is the contribution of the subsidiary to the group solvency capital requirement as defined in Technical Annex 1.
- 2.35. Any amount of non-available own funds exceeding the contribution of the subsidiary to the group solvency capital requirement that has been identified will be taken into account when calculating the deduction of minority interests following the steps described in this GL.

The examples and diagrams below illustrate the steps to follow for the deduction of non-available OF and minority interests

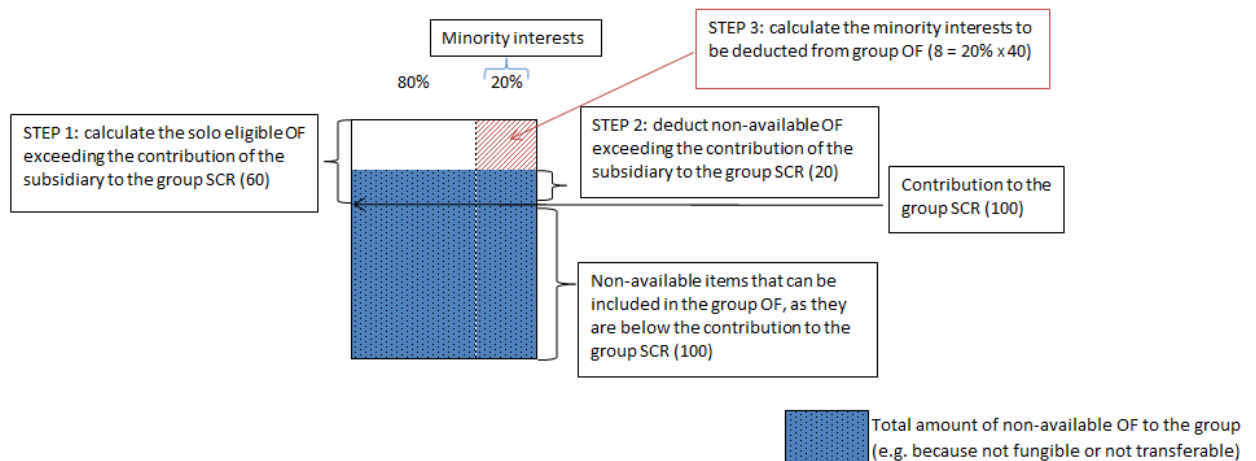
Example 1

Own funds at individual entity level = 160

Contribution to the group solvency capital requirement = 100

Non-available items (before consideration for minority interests) =120

Minority interests = 20%



Step 1: calculate the eligible own funds exceeding the contribution of the subsidiary to the group solvency capital requirement:

$$160 \text{ (OF)} - 100 \text{ (contribution to the SCR)} = 60$$

Step 2: deduct the amount of non-available own funds from the own funds calculated in step 1: in this example, the amount of non-available items (120) is greater than the contribution to the group SCR (100):

$$60 - \max(0 ; 120-100) = 40$$

The result of step 2 shows that 20 of non-available own-funds are to be deducted because exceeding the contribution to the group SCR.

Step 3: calculate the part of minority interests to be deducted from the group own funds from the result of step 2

$$20\% \times 40 = 8$$

The total amount of own funds, which can be included in the group solvency calculation, is:

$$160^a - 20^b - 8^c = 132$$

With:

a: (own funds at individual entity level)

b: (non-available OF exceeding the contribution to the group SCR)

c: (minority interests to be deducted)

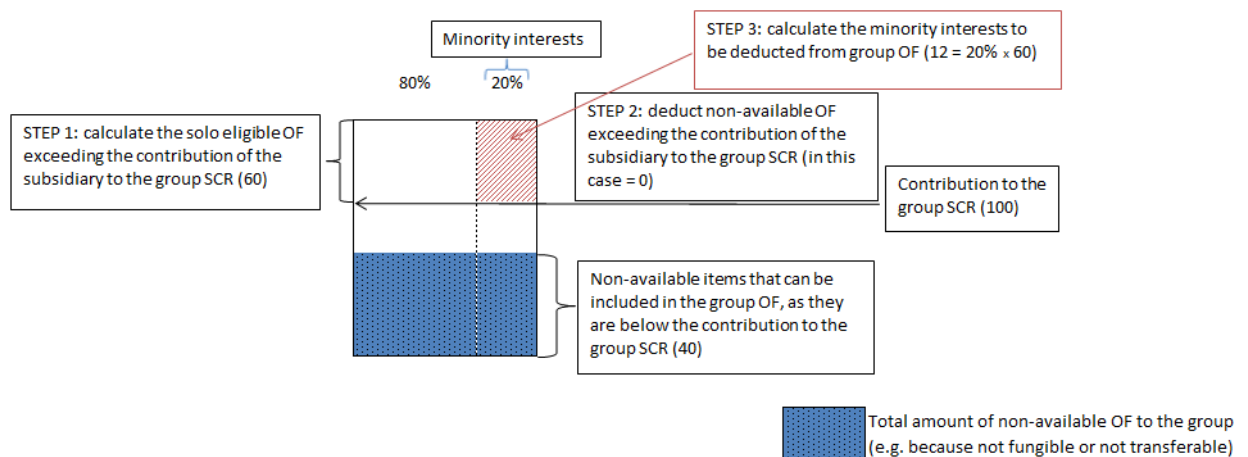
Example 2

Own funds at individual entity level = 160

Contribution to the group solvency capital requirement = 100

Non-available items (before consideration for minority interests) = 40

Minority interests = 20%



Step 1: calculate the eligible own funds exceeding the contribution of the subsidiary to the group solvency capital requirement:

$$160 \text{ (OF)} - 100 \text{ (contribution to the SCR)} = 60$$

Step 2: deduct the amount of non-available own funds from the own funds calculated in step 1: in this example, the amount of 40 (non-available items) is less than (100) the contribution to the group SCR

$$60 - \max(0 ; 40 - 100) = 60$$

Step 3: calculate the part of minority interests to be deducted from the group own funds from the result of step 2

$$20\% \times 60 = 12$$

The total amount of own funds, which can be included in the group solvency calculation, is:

$$160^a - 0^b - 12^c = 148.$$

With:

a: (own funds at individual entity level)

b: (non-available OF exceeding the contribution to the group SCR)

c: (minority interests to be deducted)

2.36. The group cannot demonstrate that the total amount of minority interests is available at group level, since the part of minority interests in the eligible own funds of the subsidiary that exceeds the contribution of the subsidiary to the group solvency capital requirement cannot be considered as available at group level.

2.37. The proxy used for calculating the contribution of the subsidiary to the group solvency capital requirement taking into account the diversification effects is the same as the one described in Guideline 12.

2.38. The total amount of minority interests in ancillary services undertakings, over which a dominant influence is exercised is deducted from the group own funds.

Guideline 15 - Treatment of ring-fenced funds and matching adjustment portfolios for covering the group solvency capital requirement

For all undertakings included in the group solvency calculation using method 1 and for undertakings in non-equivalent third countries included in the group solvency calculation using method 2, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should apply the principles for ring-fenced funds and matching adjustment portfolios as set out in Article 81 of the Implementing Measures and Article 217 of the Implementing Measures.

For undertakings in equivalent third countries included in the group solvency calculation using method 2, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should identify any restriction to the undertakings' own funds due to ring-fencing of assets or liabilities or similar arrangements in accordance with the equivalent solvency regime. These restrictions should be considered in the group solvency calculation as part of the own funds availability assessment at the group level.

When calculating the group solvency capital requirement using method 1, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should not eliminate intra-group transactions between the assets and liabilities associated with each material ring-fenced fund or with each matching adjustment portfolio and the remaining consolidated data. The group solvency capital requirement calculated on the basis of the consolidated data should be the sum of:

- (a) the notional solvency capital requirement for each material ring-fenced fund and each matching adjustment portfolio, both calculated with the assets and liabilities of the ring-fenced fund gross of intra-group transactions; and
- (b) the (diversified) group solvency capital requirement for the remaining consolidated data (excluding assets and liabilities of all material ring-fenced funds, but including the assets and liabilities of all non-material ring-fenced funds). When calculating the group solvency capital requirements for the remaining consolidated data intra-group transactions should be eliminated, while intra-group transactions between the remaining consolidated data and the material ring-fenced funds should not be eliminated.

Where a group uses an internal model to calculate the group Solvency Capital Requirement (hereinafter "SCR"), it should follow the guidance set out in Guideline 13 of the Guidelines on ring-fenced funds.

The consolidated data used to calculate the group own funds should be net of intra-group transactions as set out in Article 335(3) of the Implementing Measures. Therefore, all intra-group transactions between material ring-fenced funds and the remaining consolidated data should be eliminated for the calculation of the group own

funds.

For each material ring-fenced funds and for each matching adjustment portfolio identified within the consolidated data under method 1, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should calculate the restricted own-fund items using the same assets and liabilities of the ring-fenced fund used to calculate its notional solvency capital requirement or matching adjustment portfolio as described above, i.e. gross of intra-group transactions.

Therefore, the total restricted own funds within the ring-fenced fund or matching adjustment portfolio to be deducted from the group reconciliation reserve should be the sum of all material restricted own funds identified in EEA insurance or reinsurance undertakings and the restricted own funds identified in any non-EEA insurance and reinsurance undertaking in the scope of the consolidated data.

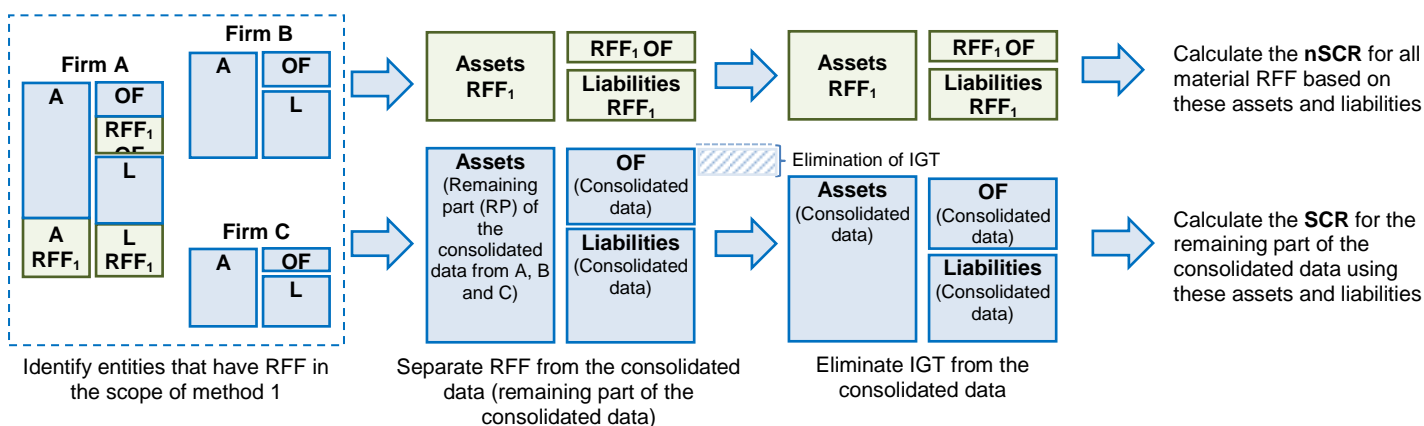
2.39. Three situations exist when identifying ring-fenced funds (RFFs) for the group solvency calculation:

- RFFs in EEA operations (method 1 or method 2): no additional RFF are identified at group level from its EEA operations. RFFs identified in the individual solvency calculation will continue to be recognised as RFFs in the group solvency calculation;
- RFFs in non-equivalent third countries: irrespective of the method of calculation used, Solvency II RFF principles are used to identify assets and liabilities associated with RFFs;
- RFFs in equivalent third countries: under method 1, Solvency II RFF principles are used to identify assets and liabilities associated with RFFs. Under method 2, any restricted own funds from a RFF-like arrangement in an equivalent third country, identified according to local rules, is captured in the group solvency through the assessment of availability of the group own funds (Guideline 13).

2.40. Where method 1 is used for the calculation of group solvency capital requirement, no intra-group transactions need to be eliminated between the assets and liabilities associated with all material RFFs and the remaining part of the consolidated data.

2.41. The illustration below describes how the RFFs are separated from the consolidated data for the purpose of the group solvency capital requirement calculation and identification of restricted RFF own funds. The intra-group transactions are only eliminated within the remaining part of the consolidated data for the group solvency capital requirement calculation.

The Group SCR calculation with RFF illustrated



2.42. The solvency capital requirement for the consolidated data defined in Article 335(1)(a) to (c) of the Implementing Measures is the sum of the nSCR (notional solvency capital requirement of the material RFF) and the solvency capital requirement calculated for the remaining part of the consolidated data.

2.43. No diversification effects are allowed between the RFF and the remaining part of the consolidated data. Where an internal model is used for the calculation of the group solvency capital requirement, the systems used for measuring the diversification effects take into account the material restrictions of diversification arising from the existence of ring-fenced funds, as set out in Guideline 13 of the Guidelines on “ring-fenced funds”.

2.44. When calculating the restricted RFF own funds, which are RFF own funds in excess of the RFF nSCR, the RFF assets and liabilities used to identify this restriction are also required to be gross of intra-group transactions. Therefore, when calculating the restricted RFF own funds, no intra-group transactions will be eliminated between the RFF and the remaining part of the consolidated data.

2.45. For a RFF identified in an EEA insurance operation and included using method 1, the restricted RFF own funds calculated at group level is the same as the restricted RFF own funds calculated at individual level.

2.46. Groups need to consider whether a RFF restriction is captured in the group solvency calculation when assessing availability and transferability of own funds for related undertakings.

2.47. The same approach applies to matching adjustment portfolios identified in the consolidated data defined in Article 335(1)(a) to (c) of the Implementing Measures.

Guideline 16 - Adjustments related to non-available own funds for the calculation of group eligible own funds

When using method 1, the participating insurance and reinsurance undertaking, the insurance holding company or the mixed financial holding company should deduct the part of the own funds of related undertakings not available for covering the group solvency capital requirement from the relevant own-funds items and the relevant tiers of the consolidated group own funds.

They should follow the process described below for calculating eligible group own funds to cover the group solvency capital requirement and the minimum consolidated group solvency capital requirement:

(a) the group own funds are calculated on the basis of the consolidated data as referred to in Article 335(a) to (f) of the Implementing Measures net of any intra-group transactions;

(b) the group own funds are classified into tiers;

(c) the available group own funds are calculated net of group adjustments relevant at group level;

(d) the eligible own funds are subject to the same tiering limits applying at individual level in order to cover the group solvency capital requirement and the minimum consolidated group solvency capital requirement.

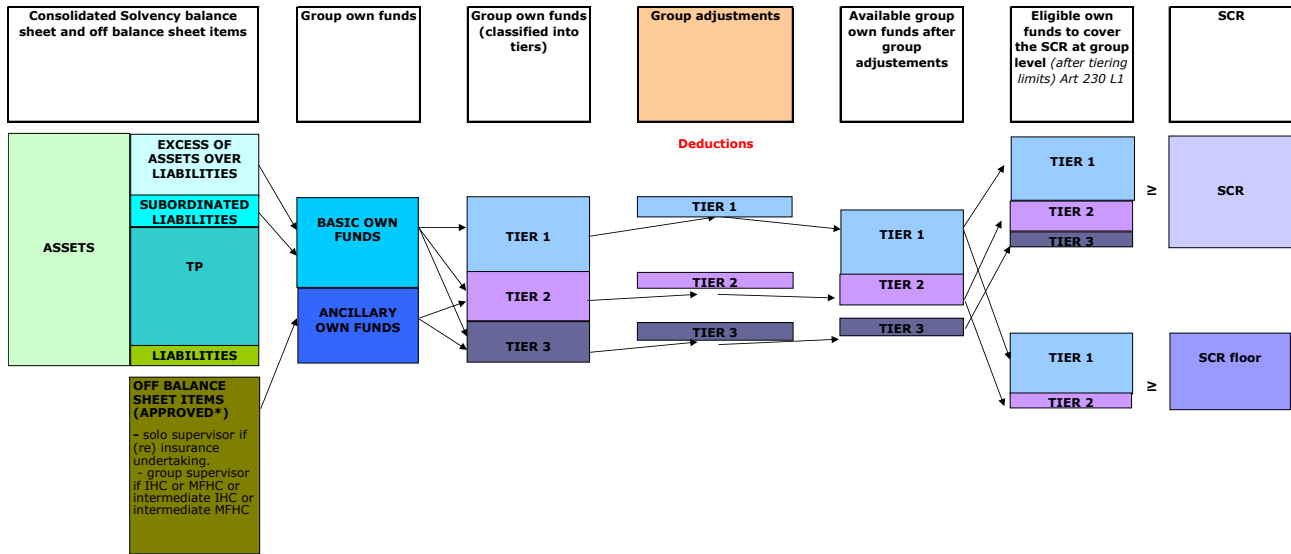
When using method 2, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should use the sum of the eligible own funds of related undertakings after deducting non-available own funds at group level.

For both calculation methods, where the non-available own funds have been classified into more than one tier, the order in which they are deducted from the different tiers should be explained to the group supervisor.

The illustration below describes the process for calculating eligible group own funds:

Calculation of eligible group own funds

Illustration of the calculation of eligible own funds for the insurance part where Method 1 (AC method) is used.



2.48. Related undertakings of other financial sectors are not included in this calculation since both own funds and capital requirements follow the relevant sectoral rules.

Guideline 17 - Process for assessing non-available own funds by the group supervisor

In the case of a cross-border group, the group supervisor should discuss its assessment of non-available own funds with the other supervisory authorities concerned within the college and with the participating insurance and reinsurance undertaking, the insurance holding company or the mixed financial holding company. The process should be as follows:

- in its Regular Supervisory Report, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should provide the group supervisor with its assessment of non-available own funds for all the undertakings included in the calculation of the group solvency. They should also explain the adjustments made in order to deduct non-available own funds;
- the group supervisor should discuss its assessment of non-available own funds within the college as well as with the group;
- each supervisory authority should provide its assessment of the availability at group level of the own funds related to the supervised undertakings;
- the group supervisor should discuss with the other supervisory authorities concerned whether the availability of own funds changes when assessing it at individual or group level.

In the case of a national group, the group supervisor should discuss its assessment of non-available own funds with the participating insurance and reinsurance undertaking, the insurance holding company or the mixed financial holding company.

The process should be as follows:

- (a) in its Regular Supervisory Report, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should provide the group supervisor with its assessment of non-available own funds for all the undertakings included in the calculation of the group solvency. They should also explain the adjustments made in order to deduct non-available own funds;
- (b) the group supervisor should discuss its assessment of non-available own funds with the group.

Guideline 18 - Reconciliation reserve at group level

The participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should ensure that the reconciliation reserve at group level is based on Article 70 of the Implementing Measures. In particular, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company at group level should take into account:

- (a) the value of own shares held by the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company and the related undertakings;
- (b) the restricted own-fund items that exceed the notional solvency capital requirement in the case of ring fenced funds and matching adjustment portfolios at group level.

2.49. The reconciliation reserve at group level includes own-fund items of related undertakings referred to in Article 335(1)(d) and (f) of the Implementing Measures.

2.50. Own funds of related undertakings which are credit institutions, investment firms and financial institutions, alternative investment fund managers, UCITS management companies, institutions for occupational retirement provision as well as non-regulated undertakings carrying out financial activities are not part of the reconciliation reserve.

Guideline 19 - Determination of the consolidated data for the group solvency calculation

The consolidated data should be calculated on the basis of the consolidated accounts that have been valued according to Solvency II Directive rules with respect to the recognition and valuation of balance sheet items as well as the inclusion and treatment of the related undertakings.

2.51. The consolidated data is all the data needed in order to calculate the eligible group own funds and the consolidated group solvency capital requirement.

2.52. Article 230(1) of the Solvency II Directive states that the group solvency calculation shall be carried out on the basis of the “consolidated accounts”, however the same Article refers to “consolidated data” regarding the calculation of own funds and solvency capital requirement at group level. This Guideline clarifies that as a starting point, groups can use their financial consolidated accounts (IFRS or local GAAP). Nevertheless consideration needs to be given to any differences that may exist between the balance sheet prepared on the basis of consolidated accounts (IFRS, local GAAP) and Solvency II consolidated data due, on the one hand, to valuation differences between Solvency II and accounting rules and, on the other hand, to the scope and treatment of related undertakings, in accordance with Article 335 of Implementing Measures. The group balance sheet is based on Article 335 of Implementing Measures regarding the determination of consolidated data.

The illustration below summarises the treatment of the related undertakings for the inclusion in the group balance sheet when using method 1.

Treatment of related undertakings for the purpose of calculating group solvency¹⁾

Type of undertaking	Insurance or reinsurance	Insurance or reinsurance	Insurance or reinsurance	Insurance holding or mixed financial holding company	Insurance holding or mixed financial holding company	Insurance holding or mixed financial holding company	Ancillary services undertakings	Ancillary services undertakings	Ancillary services undertakings	SPV ²⁾	OFS ³⁾	OTHER incl CIU
GROUP BALANCE SHEET												
Method 1												
Inclusion in the balance sheet in accordance with Art 335 "Determination of consolidated data". Will be reflected in the BS (column "Solvency II value")	Art 335 (1)(a) Full consolidation	Art 335 (1) (c) [Proportionate consolidation]	Art 335 (1)(d) Holdings valued in accordance with Art 13(3), adjusted equity method	Art 335 (1)(a) Full consolidation	Art 335 (1) (c) [Proportionate consolidation]	Art 335 (1)(d) Holdings valued in accordance with Art 13(3), adjusted equity method	Art 335 (1)(a) Full consolidation	Art 335 (1) (c) [Proportionate consolidation]	Art 335 (1) (f) Holdings valued in accordance with Art 13	Art 335 (1)(b) Full consolidation	Art 335 (1) (e) Proportional share of own funds according to relevant sectoral rules	Art 335 (1) (f) Holdings valued in accordance with Art 13
GROUP SOLVENCY												
Method 1												
Consolidated data:	Art 335 (3) => Art 335 (1)(a) Included in consolidated part of consolidated data	Art 335 (3) => Art 335 (1)(c) Included in consolidated part of consolidated data	Art 335 (1)(d) Holdings valued in accordance with Art 13(3), adjusted equity method	Art 335 (3) => Art 335 (1)(a) Included in consolidated part of consolidated data	Art 335 (3) => Art 335 (1)(c) Included in consolidated part of consolidated data	Art 335 (1)(d) Holdings valued in accordance with Art 13(3), adjusted equity method	Art 335 (3) => Art 335 (1)(a) Included in consolidated part of consolidated data	Art 335 (3) => Art 335 (1)(c) Included in consolidated part of consolidated data	Art 335 (1) (f) Holdings valued in accordance with Art 13	Art 335 (3) => Art 335 (1)(b) Included in consolidated part of consolidated data	Art 335 (3) => Art 335 (1)(e) Proportional share of own funds according to relevant sectoral rules	Art 335 (1) (f) Holdings valued in accordance with Art 13
Calc of OF	Art 336 (a) => Art 335 (1)(a) Calculated on consolidated part of consolidated data	Art 336 (a) => Art 335 (1)(c) Calculated on consolidated part of consolidated data	Art 336 (b)=>Art 335 (1)(d) proportional share of solo SCR	Art 336 (a) => Art 335 (1)(a) Calculated on consolidated part of consolidated data	Art 336 (a) => Art 335 (1)(c) Calculated on consolidated part of consolidated data	Art 336 (b)=>Art 335 (1)(d) proportional share of solo SCR	Art 336 (a) => Art 335 (1)(a) Calculated on consolidated part of consolidated data	Art 336 (a) => Art 335 (1)(c) Calculated on consolidated part of consolidated data	Art 336 (1)(d) Capital charge on Asset (valued in accordance with Art13)	Art 336 (a) => Art 335 (1)(b) Calculated on consolidated part of consolidated data	Art 336 (e) = Art 335 (1)(e) Proportional share of capital requirement according to relevant sectoral rules	Art 336(d)=> Art 335 (1)(f) Capital charge on Asset (valued in accordance with Art 13)

¹⁾ When an undertaking linked to another undertaking by a relationship as set out in Article 22(7) of Directive 2013/34/EU, the proportional share is set in accordance with the Directive 2009/138/EC Article 221.2.a. However, such relationship will imply an inclusion of 100% by default, if not decided otherwise by the group supervisor after consulting the other supervisory authorities and the group itself. This undertaking is not a subsidiary undertaking. When method 1 is used, these undertakings will be included in the balance sheet and consolidated data in accordance with Article 335 (1) (a), (c), (d), (e) or (f). When method 2 is used, treatment as stated in the Directive 2009/138/EC Article 233.

²⁾ SPV as defined in Art 13(26) and which comply with Art 211 will be excluded from calculation of group solvency, but will be taken into account for the risk mitigation technique (Art 329(3)). SPVs which do not fall under the definition in Art 13 (26) of the Directive and which do not comply with Art 211 of the Directive will be fully consolidated at group level.

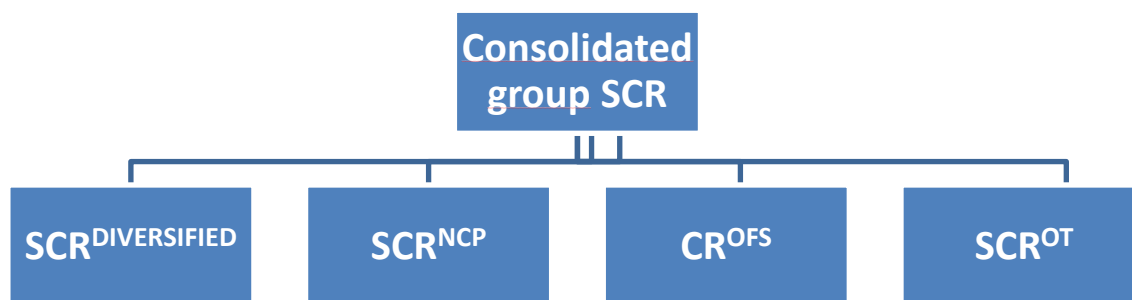
³⁾ Including credit institutions, investment firms and financial institutions, alternative investment fund managers, UCITS management companies, institutions for occupational retirement provision and non-regulated undertakings carrying out financial activities.

2.53. When the related undertakings are included in the consolidated data with full or proportional consolidation in accordance with Article 335(1)(a) to (c) of the Implementing Measures, their assets and liabilities are included line by line in the consolidated data. The related undertakings referred to in Article 336(a) of the Implementing Measures contribute to the diversification effects recognised at group level when calculating the consolidated group solvency capital requirement. This component of the group solvency capital requirement is the solvency capital requirement diversified at group level, SCR^{DIVERSIFIED}.

2.54. For related insurance or reinsurance undertakings, insurance holding companies or mixed financial holding companies which are not subsidiary, the proportional share of the related undertakings solvency capital requirements is calculated as referred to in Article 336(b) of the Implementing Measures. This component of the group solvency capital requirement is the solvency capital requirement of

non-controlled participations, SCR^{NCP} , for which no diversification effect is recognised at group level.

- 2.55. For related undertakings which are credit institutions, investment firms, financial institutions, alternative investment fund managers, asset management companies and institutions for occupational retirement provision as referred to in Article 336(c) of the Implementing Measures, the proportional share of the related undertakings capital requirements is calculated according to the relevant sectoral rules. This component of the group solvency capital requirement is the capital requirement of the other financial sectors, CR^{OFS} , for which no diversification effect is recognised at group level.
- 2.56. Other undertakings, including related but not subsidiary ancillary services undertakings, as referred to in Article 336(d) of the Implementing Measures are included in the group solvency calculation in accordance with Article 13 of the Implementing Measures. Related collective investment undertakings⁸, also fall under Article 335(1)(f) of the Implementing Measures and are consolidated in accordance with Article 13 of the Implementing Measures. This component of the group solvency capital requirement is the solvency capital requirement of the other undertakings, SCR^{OT} , for which no diversification effect is recognised at group level.
- 2.57. The diagram below shows the components of the consolidated group solvency capital requirement:



2.58. Where:

- $SCR^{DIVERSIFIED}$ = SCR of the fully consolidated undertakings calculated in accordance with Article 336(a) of the Implementing Measures.

The $SCR^{DIVERSIFIED}$, when applying the standard formula, is calculated as follows: $SCR^{diversifial} = BSCR^{diversifial} + Oprisk^{diversifial} + Adj_{TP}^{group} + Adj_{DT}^{group}$

⁸ 'Collective investment undertaking' means an undertaking for collective investment in transferable securities (UCITS) as defined in Article 1(2) of Directive 2009/65/EC or an alternative investment fund (AIF) as defined in Article 4(1) (a) of Directive 2011/61/EU.

- SCR^{NCP} = SCR of non-controlled participations calculated in accordance with Article 336 (b) of the Implementing Measures;
- CR^{OFS} = CR of other financial sectors calculated in accordance with Article 336 (c) of the Implementing Measures;
- SCR^{OT} = SCR of other undertakings calculated in accordance with Article 336 (d) of the Implementing Measures.

2.59. As regards undertakings linked by a relationship as set out in Article 12 (1) of Directive 83/349/EEC, Article 335 (2) of the Implementing Measures states that these undertakings are included in the consolidated data in accordance with letters (a), (c), (d), (e) or (f) of the [first paragraph], respectively full consolidation, proportional consolidation, adjusted equity method, according to the relevant sectoral rules in other financial sectors, in accordance with Article 13 of the Implementing Measures.

Guideline 20 - Determination of the currency for the purpose of the currency risk calculation

The capital requirement for the currency risk should take into account any relevant risk mitigation technique which meets the requirements set out in Articles 209 to 215 of the Implementing Measures. Where the consolidated solvency capital requirement is calculated using the standard formula, all the investments denominated in a currency pegged to the currency of the consolidated accounts should be taken into account in accordance with Article 188 of the Implementing Measures at group level as well.

2.60. When assessing the impact on the basic own funds, groups can account for any risk mitigation instruments, e.g. currency hedging, as set out in Article 83 (4) of the Implementing Measures. Risk mitigation instruments can only be accounted for in the group solvency calculation if they meet the requirements set out in Articles 209 to 215 of the Implementing Measures.

2.61. Any pegging arrangements, as described in Article 188 of the Implementing Measures can also be reflected in the group currency risk calculation, provided that they meet the criteria set out in Article 188 (5) of the Implementing Measures. This means that pegging arrangements for the local currencies may be escalated at the group level when preparing consolidated data.

Guideline 21 - Minimum consolidated group solvency capital requirement (floor to the group solvency capital requirement)

In the determination of the minimum consolidated group solvency capital requirement, when method 1 is used, exclusively or in combination of method 2, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should use the following capital requirements:

- the minimum capital requirements of the EEA authorised insurance and reinsurance undertakings included in scope of method 1;
- the local capital requirements, at which the authorisation would be withdrawn, for third country insurance and reinsurance undertakings included in scope of method 1 independently of any equivalence finding.

2.62. A minimum consolidated group solvency capital requirement applies when using method 1 and the combination of methods for the consolidated part.

2.63. The consolidated group solvency capital requirement using method 1 or a combination of methods cannot be less than the minimum consolidated group solvency capital requirement as determined in this Guideline.

2.64. Insurance holding companies, mixed financial holding companies, ancillary services undertakings and special purpose vehicles are not separately included in the minimum consolidated group solvency capital requirement since no notional minimum capital requirement is required for them.

2.65. In order not to calculate a notional minimum capital requirement at individual entity level for the only purpose of determining the minimum consolidated group solvency capital requirement, related insurance or reinsurance undertakings in third countries may use the local capital requirement under which the authorisation would be withdrawn, as a proxy for their minimum capital requirement at individual entity level, independently of any equivalence decision.

Guideline 22 – Minimum consolidated group solvency capital requirement

In case method 1 is used, exclusively or in combination of method 2, when the minimum consolidated group solvency capital requirement is no longer complied with, or when there is a risk of non-compliance in the following three months, the supervisory measures set out in Article 139 (1) and (2) of the Solvency II Directive for non-compliance with the individual minimum capital requirement should apply at group level.

2.66. When the minimum consolidated group solvency capital requirement is no longer complied with, or when there is a risk of non-compliance in the following three months, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company immediately informs the group supervisor. Then, the group supervisor informs the other

supervisory authorities within the college of supervisors in order to assess the solvency position of the group.

- 2.67. Within one month from the observation of non-compliance with the minimum consolidated group solvency capital requirement, the participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company submits to the group supervisor a short-term realistic finance scheme to restore, within three months, the compliance with the minimum consolidated group solvency capital requirement or to reduce its risk profile.
- 2.68. Article 139 (3) of the Solvency II Directive does not apply since it is not possible to restrict or prohibit the free disposal of assets at group level.

Guideline 23 – Treatment of group specific risks

The participating insurance or reinsurance undertaking, the insurance holding company or the mixed financial holding company should calculate the group solvency capital requirement taking into account all quantifiable, material specific risks existing at group level, which may impact the solvency and financial position of the group. If the group specific risks are material, the group should use group-specific parameters or a partial internal model for the calculation of the solvency capital requirement corresponding to the group-specific risks.

These risks are:

- (a) the risks which are also present at individual level, but whose impact is significantly different (which behave in a different way) at group level; or
- (b) the risks only present at group level.

The group solvency capital requirement for the quantifiable part of these risks should be calculated as follows:

- in the case described in a) by applying different calibrations to the relevant risk modules or sub-modules than those used at the individual level, or by applying appropriate scenarios;
- in the case of b) by applying appropriate scenarios.

If the group is unable to reflect the risk profile in the group solvency capital requirement due to the specific risks existing at group level as described above, the group supervisor after consulting the other supervisory authorities concerned, should be able to impose a group capital add-on, as provided for in Articles 232 (a) and 233 (6) of the Solvency II Directive, if appropriate.

- 2.69. According to Articles 101 (3) and 220 (2) of the Solvency II Directive, the solvency capital requirement reflects all quantifiable risks to which an insurance or reinsurance undertaking is exposed to. The group SCR calculated by the standard formula is based on inputs from individual entities whose design and calibration do not take into account the fact that undertakings belong to the group. Although the impact of the significant risks stemming from being part of a group may be felt at individual level (for example through a higher lapse rate

at individual level in the case of a deteriorating financial situation of a group member or the whole group) they are not reflected in the individual capital requirement (e.g. in the calibration). Therefore, the group specific risks are to be incorporated in the group capital requirement.

- 2.70. Capital add-on is a last resort measure, therefore prior to the decision made by the group supervisor to impose it, the group is expected to assess the materiality of group specific risks and quantify them.
- 2.71. The qualitative assessment of group specific risks is needed given that quantification of some of them (i.e. regarding strategic risks and conflict of interests between the group goals, which may change in a crisis, and the local undertaking interests) is difficult and not always possible.
- 2.72. The scenarios mentioned in this Guideline may include for example: higher lapse rate, higher acquisition costs, lower renewal rate, earlier withdrawal of a counterparty from a contract, lower participation values, another calibration of concentration risk due to a lack of intra-group transactions at group level.

Guideline 24 - Risk profile capital add-on when using method 1

Where a risk profile capital add-on has been set on a related undertaking, and that related undertaking is consolidated according to method 1, the group supervisor should assess at group level the significance of the deviation of the risk profile from the assumptions underlying the solvency capital requirement as calculated using the standard formula or an internal model, and should consider the need for imposing a capital add-on on the group solvency capital requirement.

- 2.73. The extent to which a risk profile capital add-on needs to be set for a related undertaking and to be reflected in the group SCR may depend on the size of the undertaking relative to the rest of the group and can be influenced by diversification effects.

Guideline 25 – Governance capital add-on when using method 1

Where a governance capital add-on has been set on a related undertaking of a group, and that related undertaking is consolidated according to method 1, the group supervisor should assess at group level the significance of the deviation from the standards laid down in Articles 41 to 49 of the Solvency II Directive, and should consider the need for imposing a capital add-on on the group solvency capital requirement.

Guideline 26 - Assessment of the deviation at the individual level, when a significant deviation has been identified at group level

When a significant deviation has been identified at group level, the supervisory authority of a related undertaking should assess whether the deviation stems from the risk profile or from the system of governance at the level of the related undertaking.

If so, the supervisory authority concerned should assess the significance of the deviation from the risk profile or from the system of governance standards, and should consider the need for imposing a capital add-on at the level of the related undertaking.

Guideline 27 – Capital add-on when using method 2

Where all or part of the group solvency capital requirement is calculated using method 2, any risk profile capital add-on set on a related undertaking that is included under method 2 should be added to the group solvency capital requirement for the proportional share as referred to in Article 221 (1) (b) of the Solvency II Directive. The double counting of the same deviation from the risk profile at individual and group level should be avoided.

- 2.74. In order to avoid a double counting for the same deviation, when imposing a capital add-on at group level, the group supervisor takes into account all capital add-ons already imposed at individual level which may address the deviation from the risk profile arising at group level.
- 2.75. For participations in which the group has a significant influence without control, the proportion of the add-on flowing automatically from the individual calculation is the same as the percentage of the SCR included in the group calculation.