

Guidelines on facilitating an effective dialogue between competent authorities supervising insurance undertakings and statutory auditor(s) and the audit firm(s) carrying out the statutory audit of those undertakings

Introduction

- 1.1. According to Article 12(2) of Regulation (EU) No 537/2014 of 16 April 2014 of the European Parliament and of the Council on specific requirements regarding statutory audit of public-interest entities¹, EIOPA shall, taking current practices into account, issue guidelines addressed to competent authorities supervising insurance undertakings for the purpose of facilitating the establishment and the maintenance of effective dialogue between competent authorities supervising insurance undertakings and statutory auditor(s) and audit firm(s) carrying out the statutory audit of those undertakings. For the purpose of strengthening the supervision of insurance and reinsurance undertakings and the protection of policy holders, Directive 2009/138/EC of 25 November 2009 of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (hereinafter 'Solvency II Directive')², in particular Articles 68 and 72, set out legal requirements on statutory auditors to report promptly any facts which are likely to have a serious effect on the financial situation or the administrative organisation of an insurance or a reinsurance undertaking. However, in addition to the duty to report such information on serious facts and incidents, supervisory tasks can be supported by effective dialogue between supervisors and statutory auditors and audit firms.
- 1.2. EIOPA, in close cooperation with the European Banking Authority (hereinafter "EBA"), has investigated the current supervisory practices relating to the communication between competent authorities supervising insurance and reinsurance undertakings in the EU and European Economic Area (hereinafter EEA) and statutory auditors and audit firms of those supervised insurance and reinsurance undertakings. The supervisors involved in that assessment all have regular and ad hoc contacts and exchange of views with statutory auditors. However, mostly, that interaction is not based on a formal set of rules or provisions. In order to facilitate a relevant and efficient dialogue - outside the scope of competent authorities' powers to ask for ad hoc information in accordance with Article 35 (2) (c) of Directive 2009/138/EC and outside the scope of the auditor's duty to report according to Article 72 of Directive 2009/138/EC -, EIOPA has developed this set of principle-based Guidelines to support EIOPA's members organisations in developing a consistent, appropriate and proportionate supervisory approach.
- 1.3. These Guidelines are issued in accordance with Article 16 of the EIOPA Regulation³.
- 1.4. These Guidelines are addressed to competent authorities supervising insurance and reinsurance undertakings.
- 1.5. If not defined in these Guidelines, the terms have the meaning defined in the legal acts referred to in the introduction.
- 1.6. The Guidelines shall apply from 31 May 2017.

¹ OJ L 158, 27.5.2014, p. 77.

² OJ L 335, 17.12.2009, p.1.

³ OJ L 331, 15.12.2015, p. 48-83.

Guideline 1 – Approach to the dialogue

- 1.7. Competent authorities should ensure that the dialogue with the statutory auditor(s) and the audit firm(s) carrying out the statutory audit is open and constructive, as well as sufficiently flexible to ensure it can accommodate unexpected future developments.
- 1.8. Competent authorities should promote the mutual understanding of the roles and responsibilities of the parties involved in the dialogue in line with the requirements on confidentiality and professional secrecy in accordance with Article 34 of Regulation 537/2014 and Articles 64 to 71 of Directive 2009/138/EC. In particular, competent authorities should ensure that any information exchanged in the dialogue remains confidential and does not constitute a breach of any contractual or legal restriction on disclosure of information in accordance with Article 12 (3) of Regulation 537/2014 or Article 68 of Directive 2009/138/EC.
- 1.9. Competent authorities should ensure that the supervised insurance or reinsurance undertaking remains the main source of information for supervisory and statutory audit purposes and that the information gathered in the dialogue does not substitute its work.
- 1.10. Competent authorities should apply a risk-based approach to the frequency and depth of communication to ensure a proportionate approach. The depth of communication can be distinguished between regular dialogue and discussion of current, imminent or urgent developments.
- 1.11. Competent authorities should assess regularly whether the communication and the information exchange meet the objectives of the dialogue as described in this Guideline and adjust their approach accordingly.

Guideline 2 – Nature of the information to be exchanged

- 1.12. Competent authorities should consider exchanging information that is relevant to the parties of the dialogue in terms of their tasks, materiality and impact of the information.
- 1.13. In preparing and conducting the dialogue, and in communication with the statutory auditors or audit firms, competent authorities should address issues and information to be shared that are: undertaking-specific, industry-specific, current and emerging. This may entail setting up a standard list of issues to be touched upon in the dialogue. At the same time competent authorities should promote statutory auditors' or audit firms' active contribution to the selection of relevant issues and information to be shared.
- 1.14. Competent authorities should assess which information is relevant for the supervision of the undertaking and may request relevant information from the statutory auditor(s) or audit firms accordingly. Those areas may cover, but are not limited to, the external environment of the

undertaking, corporate governance and internal controls, going concern assumption, audit approach, communication with the administrative, management or supervisory body and the undertaking's audit committee, valuation and the appropriateness of capital, investments, and other relevant documents. Competent authorities should also consider sharing information relating to the individual undertaking from recent supervisory assessments or reviews, regulatory reporting, supervisory measures imposed on the undertaking and issues affecting the undertaking's going concern and issues relating to the industry, such as regulatory or macroeconomic developments. If the undertaking is part of a multinational insurance group, competent authorities, in particular group supervisors, should also consider covering relevant group-audit issues.

- 1.15. Competent authorities should be attentive regarding the form of information available at different stages of the statutory audit cycle when establishing the timing of dialogue with auditors.

Guideline 3 – Form of the dialogue

- 1.16. Competent authorities should consider and choose the most appropriate and most effective means and channels of dialogue in light of the individual circumstances of the dialogue.
- 1.17. Competent authorities should choose an appropriate combination of means and channels of the dialogue, which can be used ad hoc or on a regular basis, namely: written communication and oral communication, including phone calls and physical meetings. Competent authorities should promote setting up regular physical meetings to facilitate open communication, especially when initiating dialogue with participants for the first time.
- 1.18. Competent authorities should keep a record of the communication for its internal purposes to safeguard the succession of the communication.

Guideline 4 – Representatives in the dialogue

- 1.19. Competent authorities should consider inviting individuals, representing the competent authority and the statutory auditors or audit firms, who are knowledgeable, informed and empowered by their organisation or firm to exchange information relevant to the dialogue.
- 1.20. Competent authorities should consider the appropriate number and role of the participants, from both parties of the dialogue, taking into account the issues to be discussed during the dialogue and the particular nature and circumstances of the undertaking or undertakings subject to the dialogue.
- 1.21. Competent authorities should weigh the number of the participants in view of allowing for a relevant effective dialogue whilst safeguarding the confidentiality of the discussion's content. Competent authorities should ensure that the primary participants in the dialogue are a representative

of the supervisory authority acting as team leaders and the key audit partners. Competent authorities should consider other relevant participants from the competent authority, and - in communication with the statutory auditors or audit firms - relevant participants from the statutory auditors or audit firms according to the topics, such as IT experts, accounting experts and actuarial or valuation experts.

- 1.22. Competent authorities should assess whether in particular circumstances and considering the issues to be discussed, trilateral meetings with representatives from the undertaking, and in particular its audit committee, in addition to the dialogue envisaged in paragraphs 1.19 to 1.21, would be useful to achieve effective dialogue. Similarly, the competent authority may invite, where appropriate, competent authorities dealing with the supervision of financial markets or with public oversight of auditors. Herein confidentiality and professional secrecy requirements as set out in paragraph 1.8 of Guideline 1 should equally apply.

Guideline 5 – Frequency and timing of the dialogue

- 1.23. Competent authorities should consider scheduling regular dialogues as frequently as necessary to ensure the dialogue is effective, taking into account paragraph 1.10 of Guideline 1. Competent authorities should take into account the planning cycle of supervisory inspections and statutory audits to establish the most appropriate timing for dialogue in discussion with the other party of the dialogue.
- 1.24. Competent authorities should assess whether ad hoc dialogue is necessitated due to important issues that arise and require urgent clarification.
- 1.25. Competent authorities should regularly evaluate whether the frequency and timing chosen are appropriate and proportionate relative to the effect on its supervisory tasks or on the statutory audit in relation to the undertaking. Ensuring a proportionate approach, dialogues relating to insurance undertakings that are highly risky and that have an expected high impact in case of a given failure, competent authorities should consider holding meetings at least on an annual basis.

Guideline 6 – Dialogue with auditors or audit firms collectively

- 1.26. In order to promote a more efficient dialogue at the sectoral and national level, competent authorities should consider setting up regular dialogue with statutory auditor(s) collectively to allow an exchange of views on current and emerging developments, at least annually, where relevant. Similarly to the provision in paragraph 1.22 of Guideline 4, competent authorities may consider inviting appropriate, competent authorities dealing with the supervision of financial markets or with public oversight of auditors.

- 1.27. Competent authorities should ensure that no undertaking-specific information is shared in such meetings and that the same confidentiality and professional secrecy requirements as in individual dialogues, as specified in as set out in paragraph 1.8 of Guideline 1, apply.

Compliance and Reporting Rules

- 1.28. 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.
- 1.29. Competent authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or supervisory framework in an appropriate manner.
- 1.30. 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.
- 1.31. 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

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