

**Comments Template on Consultation Paper on the
Proposal for Guidelines on
Forward Looking assessment of the undertaking's own risks
(based on the ORSA principles)**

**Deadline
19 June 2013
12:00 CET**

Name of Company:	DIMA (Dublin International Insurance & Management Association)	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP-13-009@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the paragraphs refers to this Consultation Paper, the numbering of cells refers to the Technical Annexes II and III.</p>		
Reference	Comment	Resolution
General Comment	Various aspects of these proposals will cause problems, not least because during the interim phase to which these proposals apply, companies will still be required to report under the statutory "Solvency I" regime. Thus they will be undertaking forward-looking assessments on own risks based on ORSA principles using the SCR, while the entities are in reality subject to different capital requirements. At the same time, these proposals appear to require forward looking assessments on own risks for both SCR and internal models, albeit in the absence of	

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	<p>either being finalized during the Solvency II interim period.</p> <p>EIOPA should endeavor to ensure that national supervisors apply the requirements without any local additions. The supervision of the forward looking assessment of the undertaking's own risks process has to be proportionate to the purpose of the preparatory phase and, given the dual requirements, not require an extensive amount of time for the undertaking. In addition, any information addressed to the NCAs must not lead to any regulatory control or sanction as long as the framework is not into force.</p> <p>Furthermore, the status of the explanatory text is unclear. It is said to provide additional information and examples but seems to a large extent to go beyond that, and contains numerous additional requirements which are granular and prescriptive, and in some cases do not even mirror the current proposed guidelines.</p> <p>We have two over-arching concerns:</p> <ul style="list-style-type: none"> • the spirit of the ORSA is being diluted through increasing guidance. In particular, the idea of defining a supervisory reporting concept for the ORSA has the effect of making it another regulatory return; and • it is not clear under what legislation the guidelines would be expected to apply to groups prior to the introduction of Solvency II. 	
Introduction General Comment		
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1.10	Solvency II Pillar 1 elements should not be considered until such time as the requirements have been finalised.	
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1.17	The implementation at the group level should follow in a next step after Solvency II comes into force.	
1.18	Please see comment 1.17.	
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Section I. General Comments	The submission of quantitative information should not be subject to control or sanction since Pillar 1 is not yet finalised. Furthermore, any communication of a forward looking assessment of the undertaking's risks or narrative reporting must not lead to any specific regulatory measure.	
1.22		
1.23	The purpose of building qualitative information should be to form part of the ORSA process and assessment, not to support the provision of information to supervisors.	
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1.27	The expectation for firms to monitor their Solvency II position prior to the introduction of Solvency II effectively creates a “parallel run” environment which is not cost effective. There is a difference in running the Solvency II basis numbers and technical provisions as part of a dry run or development phase and running them in a parallel run environment that would be reported. It is important that companies have the ability to implement the full requirements for Solvency II properly, so a full “parallel run” environment should not be required.	
1.28	As an interim proposal, this is particularly onerous and not indicated in comparison with treatment in the internal model guidelines proposals already requesting processes be built to calculate standard formula and consider capital planning implications in case of non-approval. It is more appropriate to phase in the use of the internal model for ORSA in line with the approval process itself. The requirement to use the standard formula for internal model users should be deleted.	
1.29		
Section II. General Comments		
1.30	The concept of proportionality only appears to apply to the ORSA assessment element. However, a number of firms may already be running an economic capital model (therefore they are doing an ORSA) and the proportionality concept should also apply in terms of the work they are required to do around the SCR and MCR. A firm holding capital at a higher confidence interval should be allowed to demonstrate why it holds more capital than the SCR and the work around the SCR and MCR should be allowed to be proportionate.	
1.31	It is unclear what the expectations of the managing body are in terms of defining the ORSA process. In many firms the managing body will have agreed over-arching principles for the risk management framework and charges the risk function, actuaries and others with the operational detail of the implementation (e.g. the selection of stress tests). The managing body will certainly	

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	<p>challenge the results of the implementation (e.g. the choice of stress tests, or the results of the stress tests), but this wording implies a greater responsibility which is not practical. Furthermore, it is not realistic to expect the managing body to challenge the SCR calculation until such time as it has regulatory standing. They certainly may be informed of its content during the run in to its introduction, but the time spent on the SCR prior to the regulations being introduced will be relatively limited, particularly for those firms that hold themselves to a greater confidence interval standard.</p>	
1.32		
1.33	<p>These proposals are particularly prescriptive; this assessment should focus on principles rather than this level of detail. It would be more appropriate for the requirement b) to be part of the Record of each forward-looking assessment as risk profile and tolerances can change between risk assessments. Furthermore, the technical specification of the approach used for the assessment should not be part of the policy. Data requirements are better dealt with more generally under governance requirements. Reword c) (i) to read: "...reverse stress test or other relevant analyses are to be..."</p>	
1.34	<p>The guideline does not recognise that firms may not undertake a strategic planning exercise every year. In many firms this may only be done every two or three years, depending on the market environment. The number of years considered within the ORSA should be linked to the firm's planning cycle and should not be mandated.</p>	
1.35		
1.36	<p>The requirement to submit a report that is, essentially, an internal report on a regular basis makes the requirement effectively another regulatory return and this is emphasised by the specification of content. The managing body of the firm should be allowed to decide what it feels is the appropriate content for its own assessment. Guidelines might be appropriate but there should not be rules around the content.</p>	
Section III. General		

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Comments		
1.37	<p>Proportionality is a significant issue for this aspects of the ORSA guidelines. It is entirely possible that a firm might be considering US GAAP, Solvency II, economic and rating agency views. As such, there has to be a level of pragmatism in the level of explanation expected between the various views. Many firms are managed to multiple views. For example, the rating agency view is often a proxy for how external stakeholders would consider them, while the economic view is how management sees the firm itself. Differences between the approaches are going to be relatively high level and reasonably well known so the explanation should be proportionate to this. The requirement is also inconsistent with the approach described in the cover note, which indicates that during the preparatory phase not all provisions might be met. By requiring firms to quantify the impact of the overall solvency needs of using different recognition and valuation bases, EIOPA is imposing Solvency II Pillar 1 calculations to all undertakings.</p>	
1.38	See comment above.	
1.39	It is not clear how an undertaking should quantify the overall solvency needs for non-quantifiable risks as these should be assessed qualitatively.	
1.40		
1.41	<p>The guidelines need to recognise that not all firms undertake a strategic planning exercise on an annual basis. This is because a strategic plan is directional and aspirational, and serves a different purpose to a detailed annual planning and budgeting exercise. There should not be a requirement for firms to undertake an annual strategic planning exercise. Scenario testing should be limited to relevant scenarios in the preparatory phase.</p>	
1.42	<p>This requirement is critical because it requires Pillar 1 calculations (see general comments). The guidelines should only apply for solo undertakings when the legislative process is completed. Application at group level should not be required before Solvency II comes into force (see general comments). Proportionality is also key here. If a firm is managing itself to a higher than SCR capital requirement and is demonstrating compliance with that, then the work to demonstrate compliance with the SCR (even if calculated on a slightly different basis) should be suitably</p>	

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	<p>proportionate. This should be reworded to read: "...the assessment of whether the undertaking would comply..."</p>	
1.43	<p>This guideline seems superfluous for the ORSA since it is a requirement of the actuarial function under the governance guidelines. Furthermore, this requires Pillar 1 calculations. Reword to read: "... undertaking provides input as to whether the undertaking would comply..."</p>	
1.44	<p>Industry is currently not privy to the assumptions underlying the Solvency II solvency capital requirement calculation; presumably these will be shared in a timely fashion with industry to enable this proposed assessment to be undertaken.</p> <p>The policy option described in the impact assessment should be included in the guidelines, namely that undertakings are just required to perform a qualitative assessment as a first step. Quantification would be a second step only if the qualitative assessment indicates that the deviation is significant and will have a material impact.</p> <p>Nonetheless, it is unclear how the requirement can be implemented as the assumptions of the SCR standard formula are not yet finalised and the necessary background information is not yet announced by EIOPA.</p> <p>The framework directive states that the ORSA "should not serve to calculate a capital requirement". There is a risk of an overly broad interpretation of the guidelines by NCAs, leading indirectly to capital add-ons or to an obligation to implement an internal model. Such requirements implicitly based on ORSA results need to be avoided. Whether or not a deviation from the assumptions underlying the SCR calculation is considered significant should be defined by an undertaking itself. The principles of proportionality should be emphasised in this context.</p>	
1.45	<p>It does not seem appropriate to mandate specific uses for the ORSA. This is against the principles of the assessment. Rather, the focus should be on management demonstrating how it is used.</p>	
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Section IV. General Comments		
1.47	<p>It is not clear how these guidelines (1.47 and 1.48) would be enforceable prior to the introduction of Solvency II. The guidelines appears to imply that there might be some</p>	

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	form of "designated insurer" status but the regulations do not currently give those powers. In addition, it should be mentioned that only entities material at the group level are of importance for a group forward looking assessment.	
1.48	<p>It should be made clear when an application can be made during the preparatory phase and to which supervisor.</p> <p>Guideline 20 is inconsistent with Level 1. Accordingly with Article 246, the decision on the single document covering all the forward looking assessment is to be taken by the group supervisor after consulting the other members of the college; a joint decision is not required.</p> <p>It would also be helpful to have clarity on the conditions to be fulfilled by the group in order to be allowed to perform a single forward looking assessment of the undertaking's own risks.</p> <p>Considering that the allowance for a single document was significantly meant to avoid substantial duplication and unnecessary additional burden for undertakings, supervisors should aim to require, if needed, a translation in a language most commonly understood by the supervisory authorities involved, instead of in several local languages.</p>	
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1.50	<p>Application at group level should not be required before Solvency II comes into force.</p> <p>It should be ensured that the Guideline 3 on thresholds applies for a) – c).</p>	
1.51	<p>A single ORSA should be allowed where the group supervision is already in place, and the group has group financial planning and risk management processes, and also for sub-groups.</p> <p>Also, it should be clarified that:</p> <ul style="list-style-type: none"> • the scope is re/insurance subsidiaries; and • the objective of the "explanation of how the subsidiaries are covered" 	

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	considering that according with Articles 246, these subsidiaries are required to comply with Article 45.	
1.52	Please see comment at 1.47	
1.53	The guideline is silent in regard to equivalence in the interim period including for countries in the first wave of equivalence assessments.	
Compliance and Reporting Rules General Comments	It is unclear what "comply" means in this context. It should be sufficient, for example, for a local regulator to issue "best practice" guidance which includes the relevant guidelines.	
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Impact Assessment – General Comments		
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2.3	The guidelines appear to introduce reporting ahead of the implementation of Solvency II. This is an additional cost burden on the industry and goes beyond what would be reasonably planned within an internal project timetable for Pillar 1 and Pillar 3 compliance. Such a plan is likely to include dry run reporting and dry run model calculations but these would only be reported internally for information purposes. By formalising into reporting, an additional level of scrutiny is implied which increases the cost base for industry.	
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2.14	The principle of proportionality should guarantee that each undertaking has the opportunity to develop its own forward looking assessment process which depends on its own risk, calibrated with entity-specific assumptions in terms of organisational structure and risk management, which takes into account the nature and complexity of the risks inherent in its business.	
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Question 1	This is an additional cost to firms and should be at their own discretion depending on their own project plans and preferences.	
Question 2	It is not appropriate to issue detailed expectations since this will have the effect of turning the ORSA into another regulatory return and would detract from the key question of how firms see their own business.	
Question 3	It would be disproportionately burdensome for entities to develop separate processes in the preparatory phase which subsequently are to be changed on full implementation of Solvency II. Thus the possibility of allowing groups to produce a single forward looking assessment of undertaking's own risk document should be available. Production of a single document would reduce costs and allow firms to develop the appropriate approach that could then be implemented in a number of entities. This is a more appropriate response than multiple "dry runs".	
Question 4	The requirement for a written policy is a duplication of much of the content of a good risk management policy/framework and therefore it is unclear what additional content should be included. The firm should be allowed to demonstrate how its risk management approach meets the requirements of the ORSA rather than having to produce another document.	
Question 5	The principle of proportionality directly relates to significance, therefore it should be implemented with respect to deviations from the standard formula and a quantitative	

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	assessment should not be required where it is not material. The response to analysing deviations has to be proportionate and a qualitative explanation should be key.	
Question 6	The internal model should be allowed as an option so that companies which are progressed in internal model development would not be subject in the future to a significantly altered picture of regulatory capital needs. Many firms already use their internal model to run their business, and given that Solvency II has not yet come into force, it would seem appropriate to allow them to use this as a proxy for the SCR calculation.	
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