

Guidelines on System of Governance

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Introduction

- 1.1. According to Article 16 of Regulation (EU) 1094/2010 of 24 November 2010 (hereafter, EIOPA Regulation or the Regulation)¹ EIOPA is issuing Guidelines addressed to national competent authorities (NCAs) on how to proceed in the preparatory phase leading up to the applications of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II Directive)².
- 1.2. These Guidelines are based on Articles 40 to 49, Article 93, Article 132 and Article 246 of Solvency II Directive.
- 1.3. In the absence of preparatory Guidelines, European national competent authorities may see the need to develop national solutions in order to ensure sound risk sensitive supervision. Instead of reaching consistent and convergent supervision in the EU, different national solutions may emerge to the detriment of a good functioning internal market.
- 1.4. It is of key importance that there will be a consistent and convergent approach with respect to the preparation of Solvency II. These Guidelines should be seen as preparatory work for Solvency II by fostering preparation with respect to key areas of Solvency II in order to ensure proper management of undertakings and to ensure that supervisors have sufficient information at hand. These areas are the system of governance, including risk management system and a forward looking assessment of the undertaking's own risks (based on the Own Risk and Solvency Assessment principles, known as ORSA), pre-application for internal models, and submission of information to national competent authorities.
- 1.5. Early preparation is key in order to ensure that when Solvency II is fully applicable undertakings and national competent authorities will be well prepared and able to apply the new system. For this, national competent authorities are expected to engage with undertakings in a close dialogue.
- 1.6. As part of the preparation for the implementation of Solvency II, national competent authorities should put in place from 1 January 2014 the Guidelines as set out in this document so that insurance and reinsurance undertakings take the appropriate steps to full implementation of Solvency II.

¹ OJ L 331, 15.12.2010, p. 48–83

² OJ L 335, 17.12.2009, p.1-155

- 1.7. National competent authorities should send to EIOPA a progress report on the application of these Guidelines by the end of February following each relevant year, the first being by 28 February 2015 based on the period 1 January 2014 to 31 December 2014.
- 1.8. These Guidelines include Guidelines on the prudent person principle. National competent authorities are expected to ensure that undertakings during the preparatory period already take into account this principle on top of the system of regulatory quantitative limits applicable under the current supervisory regime. In addition national competent authorities are expected to ensure that progress is made by undertakings to make the necessary transition over the duration of the interim period towards having all the requisite governance surrounding investments in place. This does not imply that undertakings' investment portfolios already have to be changed to the extent undertakings would consider necessary when the Solvency II regime is fully applicable.
- 1.9. The Guidelines concerning the actuarial function contain references to capital requirements and technical provisions. These references are to be understood as references to Solvency II requirements. A majority of the tasks of the actuarial function concerns the coordination of Solvency II technical provisions. During the preparatory period these tasks are mainly relevant with regard to the submission of interim information to national competent authorities. There is no full framework for technical provisions valuation during this period. For the purpose of the preparatory reporting and only for that purpose the framework will be provided later.
- 1.10. According to Solvency II Directive, national competent authorities are expected to ensure that these Guidelines are applied in a manner which is proportionate to the nature, scale and complexity of the risks inherent in the business of the insurance and reinsurance undertaking. The Guidelines already reflect the application of the principles of proportionality by having the principle embedded.
- 1.11. The national competent authorities should apply the Guidelines to both individual insurance undertakings and mutatis mutandis at the level of the group. Additionally, for groups national competent authorities need to apply the group specific Guidelines.
- 1.12. For the purpose of these Guidelines, the following definition has been developed:
 - "the responsible entity" which is used in the group specific Guidelines as "the entity responsible for fulfilling the governance requirements at group level".
- 1.13. The Guidelines shall apply from 1 January 2014.

Section I: General Provisions for preparatory Guidelines

Guideline 1- General provisions for Guidelines

- 1.14. National competent authorities should take the appropriate steps in order to put in place from 1 January 2014 the present Guidelines on System of Governance.
- 1.15. National competent authorities should ensure that insurance and reinsurance undertakings and groups take the appropriate steps to:
- a. build an effective system of governance in accordance with Solvency II Directive which provides for sound and prudent management;
 - b. build an effective risk-management system comprising strategies, processes and reporting procedures necessary to identify, measure, monitor, manage and report, on a continuous basis the risks, at an individual and at an aggregated level, to which they are or could be exposed, and their interdependencies; and
 - c. provide qualitative information that will allow national competent authorities to evaluate the quality of the system of governance.

Guideline 2 - Progress report to EIOPA

- 1.16. National competent authorities should send to EIOPA, a progress report on the application of these Guidelines by the end of February following each relevant year, the first being by 28 February 2015 based on the period 1 January 2014 to 31 December 2014.

Section II: System of Governance

Chapter I: General governance requirements

Guideline 3 - The administrative, management or supervisory body (AMSB)

- 1.17. In accordance with Article 41 of Solvency II Directive, national competent authorities should ensure that the administrative, management or supervisory body of the undertaking has appropriate interaction with any committee it establishes as well as with senior management and with other key functions in the undertaking, proactively requesting information from them and challenging that information when necessary.
- 1.18. In accordance with Article 246 of Solvency II Directive, national competent authorities should ensure that at group level, the administrative, management or supervisory body of the responsible entity has an appropriate interaction with the administrative, management or supervisory bodies of all entities within the group, requesting information proactively and challenging the decisions in the matters that may affect the group.

Guideline 4 – Organisational and operational structure

- 1.19. In accordance with Article 41 of Solvency II Directive, national competent authorities should ensure that the undertaking has organisational and operational structures aimed at supporting the strategic objectives and operations of the undertaking. Such structures should be able to be adapted to changes in the strategic objectives, operations or in the business environment of the undertaking within an appropriate period of time.
- 1.20. In accordance with Article 246 of Solvency II Directive, national competent authorities should ensure that the administrative, management or supervisory body of the responsible entity assesses how changes to the group's structure impact on the sustainable financial position of the entities affected and makes the necessary adjustments in a timely manner.
- 1.21. In accordance with Article 246 of Solvency II Directive, national competent authorities should ensure that, in order to take appropriate measures, the administrative, management or supervisory body of the responsible entity has an appropriate knowledge of the corporate organisation of the group, the business model of its different entities and the links and relationships between them and the risks arising from the group's structure.

Guideline 5 - Key functions

- 1.22. In accordance with Articles 44, 46, 47 and 48 of Solvency II Directive, national competent authorities should ensure that the undertaking appropriately implements the following key functions: risk management function, compliance function, internal audit function and actuarial function.
- 1.23. In accordance with Articles 44, 46, 47, 48 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity appropriately implements the following key functions: risk management function, compliance function, internal audit function and actuarial function at the level of the group.

Guideline 6 – Decision-making

- 1.24. In accordance with Article 41 of Solvency II Directive, national competent authorities should ensure that the undertaking ensures that at least two persons effectively run the undertaking. That implies that any significant decision of the undertaking involves at least two persons who effectively run the undertaking before the decision is being implemented.

Guideline 7 - Documentation of decisions taken at the level of the AMSB

- 1.25. In accordance with Article 41 and Article 44 of Solvency II Directive, national competent authorities should ensure that the undertaking appropriately documents the decisions taken at the level of the administrative, management or supervisory body of the undertaking and how information from the risk management system has been taken into account.

Guideline 8 - Internal review of the system of governance

- 1.26. In accordance with Article 41 of Solvency II Directive, national competent authorities should ensure that the administrative, management or supervisory body of the undertaking determines the scope and frequency of the internal reviews of the system of governance, taking into account the nature, scale and complexity of the business both at individual and at group level, as well as the structure of the group.
- 1.27. In accordance with Article 41 of Solvency II Directive, national competent authorities should ensure that the scope, findings and conclusions of the review are properly documented and reported to the administrative, management or supervisory body of the undertaking. Suitable feedback loops are necessary to ensure follow-up actions are undertaken and recorded.

Guideline 9 – Policies

- 1.28. In accordance with Article 41 of Solvency II Directive, national competent authorities should ensure that the undertaking aligns all policies required as part of the system of governance with each other and with its business strategy. Each policy should clearly set out at least:
- a) the goals pursued by the policy;
 - b) the tasks to be performed and the person or role responsible for them;
 - c) the processes and reporting procedures to be applied; and
 - d) the obligation of the relevant organisational units to inform the risk management, internal audit and the compliance and actuarial functions of any facts relevant for the performance of their duties.
- 1.29. In accordance with Article 41 of Solvency II Directive, national competent authorities should ensure that in the policies that cover the key functions, the undertaking also addresses the position of these functions within the undertaking, their rights and powers.

Guideline 10 - Contingency plans

- 1.30. In accordance with Article 41 of Solvency II Directive, national competent authorities should ensure that the undertaking identifies risks to be addressed by contingency plans covering the areas where it considers itself to be vulnerable, and reviews, updates and tests these contingency plans on a regular basis.

Chapter II: Fit and Proper

Guideline 11 – Fit requirements

- 1.31. In accordance with Article 42 of Solvency II Directive, national competent authorities should ensure that the undertaking ensures that persons who

effectively run the undertaking or have other key functions, including members of the administrative, supervisory or management body of the undertaking, are 'fit' and take account of the respective duties allocated to individual persons to ensure appropriate diversity of qualifications, knowledge and relevant experience so that the undertaking is managed and overseen in a professional manner.

1.32. In accordance with Article 42 of Solvency II Directive, national competent authorities should ensure that the undertaking ensures that the members of the administrative, management or supervisory body collectively possess appropriate qualification, experience and knowledge about at least:

- a) insurance and financial markets;
- b) business strategy and business model;
- c) system of governance;
- d) financial and actuarial analysis; and
- e) regulatory framework and requirements.

Guideline 12 - Proper requirements

1.33. In accordance with Article 42 of Solvency II Directive, national competent authorities should ensure that the undertaking, when assessing whether a person is 'proper', includes an assessment of that person's honesty and financial soundness based on relevant evidence regarding their character, personal behaviour and business conduct including any criminal, financial, supervisory aspects regardless of jurisdiction. The period of limitation of the committed offence is judged based on national law or practice.

Guideline 13 - Fit and proper policies and procedures

1.34. In accordance with Article 41 and 42 of Solvency II Directive, national competent authorities should ensure that the undertaking has a policy on the fit and proper requirements, which includes at least:

- a) a description of the procedure for assessing the fitness and propriety of the persons who effectively run the undertaking or have other key functions, both when being considered for the specific position and on an on-going basis;
- b) a description of the situations that give rise to a re-assessment of the fit and proper requirements; and
- c) a description of the fit and proper procedures for assessing other relevant personnel not subject to the requirements of Article 42 of Solvency II Directive according to internal standards, both when being considered for the specific position and on an on-going basis.

Guideline 14 - Outsourcing of key functions

- 1.35. In accordance with Article 42 and 49 of Solvency II Directive, national competent authorities should ensure that the undertaking applies the fit and proper procedures in assessing persons employed by the service provider or sub service provider to perform an outsourced key function.
- 1.36. In accordance with Article 42 and 49 of Solvency II Directive, national competent authorities should ensure that the undertaking designates a person within the undertaking with overall responsibility for the outsourced key function who is fit and proper and possesses sufficient knowledge and experience regarding the outsourced key function to be able to challenge the performance and results of the service provider.

Chapter III: Risk Management

Guideline 15 - Role of the administrative, management or supervisory body in the risk management system

- 1.37. In accordance with Article 44 of Solvency II Directive, national competent authorities should ensure that the administrative, management or supervisory body of the undertaking is ultimately responsible for ensuring the effectiveness of the risk management system, setting the undertaking's risk appetite and overall risk tolerance limits as well as approving the main risk management strategies and policies.
- 1.38. In accordance with Article 246 of Solvency II Directive, national competent authorities should ensure that the administrative, management or supervisory body of the responsible entity is responsible for the effectiveness of the risk management system of the whole group. This risk management system should include at least:
- a) the strategic decisions and policies on risk management at group level;
 - b) the definition of group's risk appetite and overall risk tolerance limits; and
 - c) the identification, measurement, management, monitoring and reporting of risks at group level.
- 1.39. In accordance with Article 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity ensures that such strategic decisions and policies are consistent with the group's structure, size and the specificities of the entities in the group. It also ensures that the specific operations, which are material, and associated risks of each entity in the group are covered and in addition, it ensures that an integrated, consistent and efficient risk management of the group is put in place.

Guideline 16 - Risk management policy

- 1.40. In accordance with Article 44 of Solvency II Directive, national competent authorities should ensure that the undertaking establishes a risk management policy which at least:
- a) defines the risk categories and the methods to measure the risks;
 - b) outlines how the undertaking manages each relevant category, area of risks and any potential aggregation of risks;
 - c) describes the connection with the overall solvency needs assessment as identified in the forward looking assessment of the undertaking's own risks (based on the ORSA principles), the regulatory capital requirements and the undertaking's risk tolerance limits;
 - d) specifies risk tolerance limits within all relevant risk categories in line with the undertaking's overall risk appetite; and
 - e) describes the frequency and content of regular stress tests and the situations that would warrant ad-hoc stress tests.

Guideline 17 - Risk management function: general tasks

- 1.41. In accordance with Article 44 of Solvency II Directive, national competent authorities should ensure that the undertaking requires the risk management function to report to the administrative, management or supervisory body on risks that have been identified as potentially material. The risk management function should also report on other specific areas of risks both on its own initiative and following requests from the administrative, management or supervisory body.
- 1.42. In accordance with Article 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity ensures that the risk policy is implemented consistently across the group.

Guideline 18 - Underwriting and reserving risk management policy

- 1.43. In accordance with Article 44 of Solvency II Directive, national competent authorities should ensure that in its risk management policy, the undertaking covers at least the following with regard to underwriting and reserving risk:
- a) the types and characteristics of the insurance business, such as the type of insurance risk the undertaking is willing to accept;
 - b) how the adequacy of premium income to cover expected claims and expenses is to be ensured;
 - c) the identification of the risks arising from the undertaking's insurance obligations, including embedded options and guaranteed surrender values in its products;
 - d) how, in the process of designing a new insurance product and the premium calculation, the undertaking takes account of the constraints related to investments; and

- e) how, in the process of designing a new insurance product and the premium calculation, the undertaking takes account of reinsurance or other risk mitigation techniques.

Guideline 19 – Operational risk management policy

1.44. In accordance with Article 44 of Solvency II Directive, national competent authorities should ensure that in the risk management policy, the undertaking covers at least the following with regard to operational risk:

- a) identification of the operational risks it is or might be exposed to and assessment of the way to mitigate them;
- b) activities and internal processes for managing operational risks, including the IT system supporting them; and
- c) risk tolerance limits with respect to the undertaking's main operational risk areas.

1.45. In accordance with Article 44 of Solvency II Directive, national competent authorities should ensure that the undertaking has processes to identify, analyse and report on operational risk events. For this purpose, it should establish a process for collecting and monitoring operational risk events.

1.46. In accordance with Article 44 of Solvency II Directive, national competent authorities should ensure that for the purposes of operational risk management, the undertaking develops and analyses an appropriate set of operational risk scenarios based on at least the following approaches:

- a) the failure of a key process, personnel or system; and
- b) the occurrence of external events.

Guideline 20 – Control and documentation of risk-mitigation techniques

1.47. In accordance with Article 44 of Solvency II Directive, national competent authorities should ensure that for the purposes of proper use of reinsurance and other risk mitigation techniques the undertaking analyses, assesses and documents the effectiveness of all risk mitigation techniques employed.

Guideline 21 - Reinsurance and other risk-mitigation techniques – risk management policy

1.48. In accordance with Article 44 of Solvency II Directive, national competent authorities should ensure that in the risk management policy the undertaking covers at least the following with regard to risk mitigation techniques:

- a) identification of the level of risk transfer appropriate to the undertaking's defined risk limits and which kind of reinsurance arrangements are most appropriate considering the undertaking's risk profile;

- b) principles for the selection of such risk mitigation counterparties and procedures for assessing and monitoring the creditworthiness and diversification of reinsurance counterparties;
- c) procedures for assessing the effective risk transfer and consideration of basis risk; and
- d) liquidity management to deal with any timing mismatch between claims' payments and reinsurance recoverable.

Guideline 22 - Asset-liability management policy

1.49. In accordance with Article 44 of Solvency II Directive, national competent authorities should ensure that in its risk management policy the undertaking covers at least the following information with regard to asset-liability management:

- a) a description of the procedure for identification and assessment of different natures of mismatches between assets and liabilities, at least with regard to terms and currency;
- b) a description of mitigation techniques to be used and the expected effect of relevant risk-mitigating techniques on asset-liability management;
- c) a description of deliberate mismatches permitted; and
- d) a description of the underlying methodology and frequency of stress tests and scenario tests to be carried out.

Guideline 23 - Investment risk management policy

1.50. In accordance with Articles 44 and 132 of Solvency II Directive, national competent authorities should ensure that in its risk management policy, the undertaking covers at least the following with regard to investments:

- a) the level of security, quality, liquidity, profitability and availability the undertaking is aiming for with regard to the whole portfolio of assets and how it plans to achieve this;
- b) its quantitative limits on assets and exposures, including off-balance sheet exposures, that are to be established to help to ensure the undertaking achieves its desired level of security, quality, liquidity, profitability and availability for the portfolio;
- c) consideration of the financial market environment;
- d) the conditions under which the undertaking can pledge or lend assets;
- e) the link between market risk and other risks in adverse scenarios;
- f) the procedure for appropriately valuing and verifying the investment assets;
- g) the procedures to monitor the performance of the investments and review the policy when necessary; and
- h) how the assets are to be selected in the best interest of policyholders and beneficiaries.

Guideline 24 - Liquidity risk management policy

- 1.51. In accordance with Article 44 of Solvency II Directive, national competent authorities should ensure that in its risk management policy, the undertaking covers at least the following items with regard to liquidity risk:
- a) the procedure for determining the level of mismatch between the cash inflows and the cash outflows of both assets and liabilities, including expected cash flows of direct insurance and reinsurance such as claims, lapses or surrenders;
 - b) consideration of total liquidity needs in the short and medium term, including an appropriate liquidity buffer to guard against a liquidity shortfall;
 - c) consideration of the level and monitoring of liquid assets, including a quantification of potential costs or financial losses arising from an enforced realisation;
 - d) identification and costs of alternative financing tools; and
 - e) consideration of the effect on the liquidity situation of expected new business.

Chapter IV: The “prudent person” principle and the system of governance

Guideline 25 - Investment risk management

- 1.52. In accordance with Article 132 of Solvency II Directive, national competent authorities should ensure that the undertaking does not solely depend on the information provided by third parties, such as financial institutions, asset managers and rating agencies. In particular, the undertaking should develop its own set of key risk indicators in line with its investment risk management policy and business strategy.
- 1.53. In making its investment decisions, the undertaking should take into account the risks associated with the investments without relying only on the risk being adequately captured by the capital requirements.

Guideline 26 – Assessment of non-routine investment activities

- 1.54. In accordance with Article 132 of Solvency II Directive, national competent authorities should ensure that before performing any investment or investment activity of a non-routine nature the undertaking carries out an assessment of at least:
- a) its ability to perform and manage the investment or the investment activity;

- b) the risks specifically related to the investment or the investment activity and the impact of the investment or the investment activity on the undertaking's risk profile;
- c) the consistency of the investment or investment activity with the beneficiaries' and policyholders' interest, liability constraints set by the undertaking and efficient portfolio management; and
- d) the impact of this investment or investment activity on the quality, security, liquidity, profitability and availability of the whole portfolio.

1.55. In accordance with Article 132 of Solvency II Directive, national competent authorities should ensure that the undertaking has procedures that require that where such investment or investment activity entails a significant risk or change in the risk profile, the undertaking's risk management function communicates such a risk or change in the risk profile to the administrative, management or supervisory body of the undertaking.

Guideline 27 - Unit-linked and index-linked contracts

1.56. In accordance with Articles 44 and 132 of Solvency II Directive, national competent authorities should ensure that the investments of unit-linked and index-linked contracts of the undertaking are selected in the best interest of policyholders and beneficiaries taking into account any disclosed policy objectives.

1.57. In accordance with Articles 44 and 132 of Solvency II Directive, national competent authorities should ensure that, in the case of unit-linked business, the undertaking takes into account and manages the constraints related to unit-linked contracts, in particular liquidity constraints.

Guideline 28 - Assets not admitted for trading on a regulated financial market

1.58. In accordance with Articles 44 and 132 of Solvency II Directive, national competent authorities should ensure that the undertaking implements, manages, monitors and controls procedures in relation to investments that are not admitted to trading on a regulated financial market or to complex products, which are difficult to value.

1.59. In accordance with Articles 44 and 132 of Solvency II Directive, national competent authorities should ensure that the undertaking treats assets admitted to trading, but not traded or traded on a non-regular basis, similarly to those assets not admitted to trading on a regulated financial market.

Guideline 29 - Derivatives

1.60. In accordance with Articles 44 and 132 of Solvency II Directive, national competent authorities should ensure that the undertaking, when it uses derivatives, implements the procedures in line with its risk management policy on investments to monitor the performance of these derivatives.

- 1.61. In accordance with Articles 44 and 132 of Solvency II Directive, national competent authorities should ensure that the undertaking demonstrates how the quality, security, liquidity or profitability of the portfolio is improved without significant impairment of any of these features where derivatives are used to facilitate efficient portfolio management.
- 1.62. In accordance with Articles 44 and 132 of Solvency II Directive, national competent authorities should ensure that the undertaking documents the rationale and demonstrates the effective risk transfer obtained by the use of the derivatives where derivatives are used to contribute to a reduction of risks or as a risk mitigation technique.

Guideline 30 - Securitised instruments

- 1.63. In accordance with Articles 44 and 132 of Solvency II Directive, national competent authorities should ensure that, where the undertaking invests in securitised instruments, it ensures that its interests and the interests of the originator or sponsor concerning the securitised assets are well understood and aligned.

Chapter V: Own fund requirements and the system of governance

Guideline 31 – Capital Management Policy

- 1.64. In accordance with Article 41 and 93 of Solvency II Directive, national competent authorities should ensure that the undertaking should be developing a capital management policy which includes:
- a. a description of the procedure to ensure that own fund items, both at issue and subsequently, meet the requirements of the applicable capital and distribution regime and are classified correctly where the applicable regime requires;
 - b. a description of the procedure to monitor the issuance of own fund items according to the medium term capital management plan;
 - c. a description of the procedure to ensure that the terms and conditions of any own fund item are clear and unambiguous in relation to the criteria of the applicable capital regime; and
 - d. a description of the procedures to
 - i. ensure that any policy or statement in respect of ordinary share dividends is taken into account in consideration of the capital position; and
 - ii. identify and document instances in which distributions on an own funds item are expected to be deferred or cancelled.

Guideline 32 – Medium-term Capital Management Plan

- 1.65. In accordance with Article 41 and 93 of Solvency II Directive, national competent authorities should ensure that the undertaking is developing a

medium-term capital management plan which is to be monitored by the administrative, management or supervisory body of the undertaking and which includes at least considerations of:

- a. any planned capital issuance;
- b. the maturity, incorporating both the contractual maturity and any earlier opportunity to repay or redeem, relating to the undertaking's own fund items;
- c. how any issuance, redemption or repayment of, or other variation in the valuation of, an own funds item affects the application of any limits in the applicable capital regime; and
- d. the application of the distribution policy.

1.66. In accordance with Article 41 and 93 of Solvency II Directive, national competent authorities should ensure that the undertaking takes into account in the capital management plan the output from the risk management system and the forward looking assessment of own risks (based on the ORSA principles).

Chapter VI: Internal Controls

Guideline 33 – Internal Control environment

1.67. In accordance with Article 46 of Solvency II Directive, national competent authorities should ensure that the undertaking promotes the importance of performing appropriate internal controls by ensuring that all personnel are aware of their role in the internal control system. The control activities should be commensurate to the risks arising from the activities and processes to be controlled.

1.68. In accordance with Article 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity ensures a consistent implementation of the internal control systems across the group.

Guideline 34 – Monitoring and reporting

1.69. In accordance with Article 46 of Solvency II Directive, national competent authorities should ensure that the undertaking establishes that the monitoring and reporting mechanisms within the internal control system provide the administrative, management or supervisory body with the relevant information for the decision-making processes.

Chapter VII: Internal audit function

Guideline 35 – Independence

1.70. In accordance with Article 47 of Solvency II Directive, national competent authorities should ensure that the undertaking provides that when performing an audit and when evaluating and reporting the audit results, the internal audit function is not subject to influence from the administrative, management or supervisory body that can impair its independence and impartiality.

Guideline 36 - Internal audit policy

- 1.71. In accordance with Articles 41 and 47 of Solvency II Directive, national competent authorities should ensure that the undertaking has an internal audit policy which covers at least the following areas:
- a. the terms and conditions according to which the internal audit function can be called upon to give its opinion or assistance or to carry out other special tasks;
 - b. where appropriate, internal rules setting out the procedures the person responsible for the internal audit function needs to follow before informing the supervisory authority; and
 - c. where appropriate, the criteria for the rotation of staff assignments.
- 1.72. In accordance with Articles 41 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity ensures that the audit policy at the level of the group describes how the internal audit function:
- a. coordinates the internal audit activity across the group; and
 - b. ensures compliance with the internal audit requirements at the group level.

Guideline 37 – Internal audit function tasks

- 1.73. In accordance with Article 47 of Solvency II Directive, national competent authorities should ensure that the undertaking requires that the internal audit function, at least:
- a. to establish, implement and maintain an audit plan setting out the audit work to be undertaken in the upcoming years, taking into account all activities and the complete system of governance of the undertaking;
 - b. to take a risk-based approach in deciding its priorities;
 - c. to report the audit plan to the administrative, management or supervisory body of the undertaking;
 - d. to issue an internal audit report to the AMSB based on the result of work carried out in accordance with point (a), which includes findings and recommendations, including the envisaged period of time to remedy the shortcomings and the persons responsible for doing so, and information on the achievement of audit recommendations;
 - e. to submit the internal audit report to the administrative, management or supervisory body on at least an annual basis; and
 - f. to verify compliance with the decisions taken by the administrative, management or supervisory body on the basis of those recommendations referred to in point (d).

1.74. In accordance with Article 47 of Solvency II Directive, national competent authorities should ensure that where necessary, the undertaking provides that the internal audit function may carry out audits which are not included in the audit plan.

Chapter VIII: Actuarial Function

Guideline 38 - Tasks of the actuarial function

1.75. In accordance with Article 48 of Solvency II Directive, national competent authorities should ensure that the undertaking takes appropriate measures to address the potential conflicts of interests, if the undertaking decides to add additional tasks or activities to the tasks and activities of the actuarial function.

1.76. In accordance with Article 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity requires that the actuarial function gives an opinion on the reinsurance policy and the reinsurance program for the group as a whole.

Guideline 39 - Coordination of the calculation of technical provisions

1.77. In accordance with Article 48 of Solvency II Directive, national competent authorities should ensure that the undertaking requires the actuarial function to identify any inconsistency with the requirements set out in Articles 76 to Article 85 of Solvency II Directive for the calculation of technical provisions and propose corrections as appropriate.

1.78. In accordance with Article 48 of Solvency II Directive, national competent authorities should ensure that the undertaking requires the actuarial function to explain any material effect of changes in data, methodologies or assumptions between valuation dates on the amount of technical provisions if already calculated on a Solvency II basis.

Guideline 40 – Data quality

1.79. In accordance with Article 48 of Solvency II Directive, national competent authorities should ensure that the undertaking requires the actuarial function to assess the consistency of the internal and external data used in the calculation of technical provisions against the data quality standards as set in Solvency II Directive. Where relevant, the actuarial function provides recommendations on internal procedures to improve data quality so as to ensure that the undertaking is in a position to comply with the related Solvency II requirement when implemented.

Guideline 41 – Underwriting policy and reinsurance arrangements

1.80. In accordance with Article 48 of Solvency II Directive, national competent authorities should ensure that the undertaking requires the actuarial function, when providing its opinion on the underwriting policy and the reinsurance arrangements, to take into consideration the interrelations between these and the technical provisions.

Guideline 42 – The actuarial function of an undertaking with an internal model under pre-application

1.81. In accordance with Article 48 of Solvency II Directive, national competent authorities should ensure that, during the pre-application process, the undertaking requires the actuarial function to contribute to specifying which risks within their domain of expertise are covered by the internal model. The actuarial function should also contribute to how dependencies between these risks and dependencies between these risks and other risks are derived. This contribution is based on a technical analysis and should reflect the experience and expertise of the function.

Guideline 43 - Actuarial reporting to the administrative, management or supervisory body

1.82. In accordance with Article 48 of Solvency II Directive, national competent authorities should ensure that the undertaking requires the actuarial function to report in writing at least annually to the administrative, management or supervisory body. The reporting should document all material tasks that have been undertaken by the actuarial functions, their results, clearly identifying any deficiencies and giving recommendations as to how such deficiencies could be remedied.

Chapter IX: Outsourcing

Guideline 44 - Critical or important operational functions and activities

1.83. In accordance with Article 49 of Solvency II Directive, national competent authorities should ensure that the undertaking determines and documents whether the outsourced function or activity is a critical or important function or activity on the basis of whether this function or activity is essential to the operation of the undertaking as it would be unable to deliver its services to policyholders without the function or activity.

Guideline 45 - Underwriting

1.84. In accordance with Article 49 of Solvency II Directive, national competent authorities should ensure that, when an insurance intermediary, who is not an employee of the undertaking, is given authority to underwrite business or settle

claims in the name and on account of an insurance undertaking, the undertaking ensures that the activity of this intermediary is subject to the outsourcing requirements.

Guideline 46 - Intra-group outsourcing

1.85. In accordance with Article 49 of Solvency II, national competent authorities should ensure that, if key functions are outsourced within the group, the responsible entity documents which functions relate to which legal entity and ensures that the performance of the key functions at the level of the undertaking is not impaired by such arrangements.

Guideline 47 - Outsourcing written policy

1.86. In accordance with Article 49 and Article 41 of Solvency II Directive, national competent authorities should ensure that the undertaking that outsources or considers outsourcing covers in its policy the undertaking's approach and processes for outsourcing from the inception to the end of the contract. This in particular includes:

- a. the criteria for determining whether a function or activity is critical or important;
- b. how a service provider of suitable quality is selected and how and how often his performance and results are assessed;
- c. the details to be included in the written agreement with the service provider; and
- d. business contingency plans, including exit strategies for outsourced critical or important functions or activities.

Section III: Group governance specific requirements

Guideline 48 - Responsible entity

1.87. In accordance with Article 246 of Solvency II Directive, national competent authorities should ensure that the parent insurance or reinsurance undertaking or insurance holding company identifies the responsible entity and reports it to the group supervisor.

Guideline 49 - Responsibilities for setting internal governance requirements

1.88. In accordance with Article 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity sets adequate internal governance requirements across the group appropriate to the structure, business and risks of the group and of its related entities, and considers the appropriate structure and organization for risk management at group level, setting a clear allocation of responsibilities between all entities of the group.

1.89. In accordance with Article 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity does not impair the responsibilities of the administrative, management or supervisory body of each entity in the group when setting up its own system of governance.

Guideline 50 – System of Governance at group level

1.90. In accordance with Article 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity:

- a. has in place appropriate and effective tools, procedures and lines of responsibility and accountability enabling it to oversee and steer the functioning of the risk management and internal control systems at individual level;
- b. has in place reporting lines within the group and effective systems for ensuring information flows in the group bottom up and top-down as well;
- c. documents and informs all the entities in the group about the tools used to identify, measure, monitor, manage and report all risks to which the group is exposed; and
- d. takes into account the interests of all the entities belonging to the group and how these interests contribute to the common purpose of the group as a whole over the long term.

Guideline 51 - Risks with significant impact at group level

1.91. In accordance with Article 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity considers in its risk management system the risks both at individual and group level and their interdependencies, in particular:

- a. reputational risk and risks arising from intra-group transactions and risk concentrations, including contagion risk, at the group level;
- b. interdependencies between risks stemming from conducting business through different entities and in different jurisdictions;
- c. risks arising from third-country entities;
- d. risks arising from non-regulated entities; and
- e. risks arising from other regulated entities.

Guideline 52 - Group risk management

1.92. In accordance with Article 246 of Solvency I Directive I, national competent authorities should ensure that the responsible entity supports in its risk management at the level of the group by appropriate processes and procedures to identify, measure, manage, monitor and report the risks that the group and each individual entity are or might be exposed to.

1.93. In accordance with Article 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity ensures that the structure and organization of the group risk management do not impair the undertaking's legal ability to fulfil its legal, regulatory and contractual obligations.

Compliance and Reporting Rules

1.94. This document contains Guidelines issued under Article 16 of the EIOPA Regulation. In accordance with Article 16(3) of the EIOPA Regulation, Competent Authorities shall make every effort to comply with guidelines and recommendations.

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

1.96. 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 publication.

1.97. In the absence of a response by this deadline, competent authorities will be considered as non-compliant to the reporting.

Final Provision on Review

1.98. These Guidelines shall be subject to a review by EIOPA.