



EIOPA/13/414
27 September 2013

**EIOPA Final Report
on Public Consultation No. 13/009
on the Proposal for Guidelines on
Forward Looking Assessment of Own
Risks
(based on the ORSA principles)**

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1. Scope

- 1.1. This Final Report sets out the feedback to the Consultation Paper (CP) No. 13/009, which provides an analysis of responses to the consultation including to the comments made by the Insurance and Reinsurance Stakeholders Group (IRSG), describes any material changes to the CP (or confirms that there have been no material changes), and explains the reasons for this in the light of feedback received.
- 1.2. It includes a feedback statement with EIOPA's opinion on the main comments received during the Public Consultation and the revised Guidelines.

2. Purpose

- 2.1. EIOPA is issuing Guidelines addressed to National Competent Authorities (NCAs) on how they should prepare for the application of Solvency II. The Guidelines follow EIOPA's Opinion on interim measures regarding Solvency II published on the 20 December 2012¹ (hereafter 'the Opinion'), within which EIOPA:
- a) Set out its expectations that NCAs, by way of preparing for the new system, put in place, starting on 1 January 2014, important aspects of the prospective and risk based supervisory approach to be introduced by Solvency II.
 - b) Stressed the importance of a consistent and convergent approach with respect to these preparations, notwithstanding the current status of the negotiations on the Omnibus II Directive (OMDII) and the further delay to the application of Solvency II.
 - c) Committed to publish Guidelines addressed to NCAs on how they should meet the expectations described in the Opinion.
- 2.2. The measures set out in the Guidelines are preparatory for Solvency II. In order to ensure effective and meaningful preparation, there needs to be a defined and demonstrable progression towards it. This means that during the preparatory phase, NCAs are expected to ensure that undertakings take steps towards implementing the relevant aspects of the regulatory framework addressed by these Guidelines. In addition this would also ensure that when Solvency II is applicable in their jurisdiction undertakings are better prepared to fully comply with Solvency II. In turn, NCAs will be expected to take the appropriate steps to promote industry's preparation towards Solvency II and to review and evaluate the quality of the information provided to them.
- 2.3. The package in this Final Report reflects EIOPA's position on the comments received and includes:
- a) Feedback Statement;
 - b) Revised preparatory Guidelines;
 - c) Revised Explanatory Text; and
 - d) Appendixes:
 - Appendix I: Impact Assessment
 - Appendix II: Comments template

¹ <https://eiopa.europa.eu/publications/eiopa-opinions/index.html>

3. Feedback Statement

I. Introduction

- 3.1. EIOPA would like to thank stakeholders and the IRSG for having provided comments on CP No. 13/009. These comments provided valuable suggestions for improving the requirements related to governance and helped to identify areas needing further clarification.
- 3.2. The amendments that have been made cover not only clarifications, including the acceptance of a number of rewording suggestions from respondents, but also some changes to the content of the Guidelines.
- 3.3. The feedback statement outlines the comments received from stakeholders to CP No. 13/009 and the EIOPA responses to those comments along with resulting changes made to the governance package.
- 3.4. For a complete overview of all comments, responses and resulting changes made please refer also to the comments template (Appendix 2: Resolution of comments).

II. Comments in general

- 3.5. Generally stakeholders supported a move towards a harmonised regime. Stakeholders also highlighted that a proliferation of national requirements should be avoided and a consistent approach adopted across all jurisdictions for the preparation of Solvency II was welcomed.
- 3.6. The following paragraphs address the main comments received and EIOPA's answer to those.

Principle based approach and proportionality principle

- 3.7. Stakeholders want to see a 'principles based' approach for the preparatory Guidelines. They believe that the Guidelines ought to be proportionate, focus on overall issues and should avoid granularity and not be lengthy.
- 3.8. The approach taken by EIOPA is that the Guidelines do not describe how the requirements are to be applied on a case by case basis, but that they try to be applicable to all possible examples.
- 3.9. EIOPA aims to ensure that the Guidelines are applied in a manner that is proportionate in the context of the preparatory phase, and allows for some flexibility in application of these Guidelines through provisions for 'phasing-in' (i.e. different expectations for 2014 and 2015) and for the use of thresholds. Since proportionality applies whenever there are different ways to achieve expected outcomes, the Guidelines per nature do not explicitly refer to the principle of proportionality at every opportunity but specific proportionality provisions are included such as materiality thresholds and new recitals in submission of information. As they are generally not setting out how undertakings are supposed to comply with requirements, the Guidelines also do not and cannot give specific examples of what would be considered proportionate under certain circumstances.

- 3.10. EIOPA expects that NCAs ensure that the provisions described in the Opinion are applied 'in a manner which is proportionate to the nature, scale and complexity inherent in the business of the insurance and reinsurance undertaking'. The approach taken aims to ensure that this expectation can be met, and this is reflected in the drafting of the Guidelines in two principal ways:
- a) In most cases, the Guidelines are principle based or drafted with a view to the outcome and supervisory objective that should be met, taking into account the preparatory nature of Guidelines.
 - b) The scope and level of detail of the Guidelines reflects the fact that the Guidelines are issued in order to prepare for Solvency II and not for full Solvency II application from 1 January 2014. When implementing those Guidelines both NCAs and undertakings will be better prepared for Solvency II.

Purpose of the preparatory phase

- 3.11. Stakeholders questioned whether the purpose of the Guidelines was preparation or early implementation of Solvency II.
- 3.12. EIOPA would like to stress that the measures set out in the Guidelines are preparatory for Solvency II. However, to ensure effective and meaningful preparation, there needs to be a defined and demonstrable progression towards Solvency II by both supervisors and undertakings.
- 3.13. This means that during the preparatory phase, NCAs are expected to ensure that undertakings take active steps towards implementing the relevant aspects of the regulatory framework addressed in these Guidelines, so that when Solvency II is applicable, its requirements can be fully complied with. In turn, NCAs will be expected to take the necessary steps to enable them to review and evaluate the quality of the information provided to them, and to discuss with undertakings the progress being made.
- 3.14. The Guidelines are drafted using the formula "national competent authorities should ensure that" which supports this approach. In fact the Opinion stated that NCAs 'should put in place, starting on 1 January 2014, certain important aspects of the prospective and risk based supervisory approach to be introduced'. It is for NCAs to decide how to integrate the preparatory Guidelines into their regulatory or supervisory frameworks. It is important to emphasise the starting and the expected phasing-in approach here: NCAs and undertakings are expected to progress in their preparedness for Solvency II during the course of the preparatory phase.
- 3.15. Undertakings are expected to achieve the outcomes expected, taking into account the preparatory nature of the Guidelines. EIOPA expects that Guidelines are implemented by NCAs in a way that undertakings' Systems of Governance and processes for Forward Looking Assessment of Own Risks (FLAOR) as well as for Submission of Information are in place and aligned with the requirements in the preparatory Guidelines. This should allow undertakings to perform the FLAOR during 2014 and 2015, as defined in the respective Guidelines and to submit the information within the framework defined in 2015.

Enforcement measures and supervisory actions

- 3.16. Stakeholders supported that the preparatory phase should enable NCA's to assess preparedness but that it should not lead to any enforcement measures, asking for this clarification to be explicitly dealt with in a Guideline rather than in the introductory text.
- 3.17. EIOPA clarifies that NCAs are expected to comply with the Guidelines by ensuring that undertakings meet the specified outcomes taking into consideration its preparatory nature.
- 3.18. EIOPA Guidelines do not give indications on enforcement measures in relation to the implementation by undertakings of the preparatory Guidelines or in the specific way of implementation itself.
- 3.19. The means by which each NCA incorporates EIOPA Guidelines into their supervisory or regulatory frameworks is left at their discretion and it is not an EIOPA competence. When considering the best appropriate way to incorporate EIOPA Guidelines NCAs may be affected by their competences and powers and specific tools used at national level to incorporate the Guidelines.
- 3.20. Regardless of how NCAs incorporate the Guidelines at national level, EIOPA expects as an active step a dialogue to take place between NCAs and undertakings during the preparatory phase in order to prepare for Solvency II.
- 3.21. The preparatory Guidelines in itself do not require supervisory actions, in particular regarding failures by undertakings to comply with Solvency II Pillar I requirement as a result of the information provided during the preparatory phase.
- 3.22. Nevertheless, the following two examples on supervisory action would be expected:
 - a) It is expected that undertakings take into consideration any information arising from the implementation of the system of governance or from the performance of the FLAOR in the performance of their business or future business planning. It is also expected that a dialogue between NCAs and undertakings would take place, when appropriate. Although the dialogue could take this arising information into consideration, the preparatory Guidelines do not require NCAs to require an increase of capital, if the received information suggests a failure with Solvency II Directive requirements.
 - b) When NCAs receive information on the calculation of the SCR and the determination of Own Funds it is expected that NCAs review the quality of the information received and that they may take supervisory actions if the quality of the information raises concerns. But it is not expected from the preparatory Guidelines that NCAs would take any supervisory action if the Own Funds are lower than the SCR.

Status of Solvency II Directive and the Delegated Acts (Implementing measures and Technical Standards)

- 3.23. Stakeholders asked for clarifications about the interaction between the preparatory Guidelines and the overall Solvency II negotiation process. They also asked that the associated timing of submission of information and the link to pillar I ought to be spelled out in different scenarios if the Omnibus II Directive has not been agreed or has not progressed sufficiently by the end of 2013.
- 3.24. The Guidelines provide direct references to the corresponding provisions set out in Solvency II Directive. EIOPA acknowledges that certain parts of Solvency II Directive are to be revised by the OMDII and that delegated acts proposal have not yet been finalised by the European Commission yet.
- 3.25. These direct references to Solvency II are made using the expression "In accordance with..." indicating the legal basis of the topic, without prejudice to the current revision of Solvency II Directive by OMDII.
- 3.26. Although the comply-or-explain replies are provided to the preparatory Guidelines only, it is anticipated that during the preparatory phase NCAs and undertakings are preparing for the implementation of all areas covered by Solvency II Directive and not only those covered by the preparatory Guidelines.
- 3.27. EIOPA highlights that the current working assumption for the preparatory Guidelines is that Solvency II will be applicable from 1 January 2016. Under this assumption, starting the preparatory phase from 2015, as requested by some stakeholders, would be too late, especially for the System of Governance including the Forward Looking Assessment of Own Risks and reporting processes.
- 3.28. Final Solvency II Directive requirements will be determined by the OMDII, and the delegated acts. EIOPA is working under the assumption that these measures will be available in time for NCAs and undertakings to prepare for the submission of the forward looking assessment during 2014 and 2015 and the quantitative and qualitative information in 2015. In which case, at that stage, EIOPA would prepare technical specifications on Pillar I quantitative issues, including on the valuation of technical provisions, assets and liabilities other than technical provisions, the SCR and the Underlying Assumptions of the SCR formula and provide guidance on the assumptions underlying the calculation of the standard formula calculation, which reflect the decision on OMDII.
- 3.29. However, as this assumption is based on the current agenda of OMDII negotiations, for the submission of information and the report on the Forward Looking Assessment the submission dates will be reviewed at the end of 2013 based on the latest developments with regard to Omnibus II. A revision clause will be introduced in the Guidelines accordingly.

Minimum or maximum harmonisation

- 3.30. Stakeholders questioned the extent to which any Guidelines would be 'mandatory' or whether NCAs could go beyond them, i.e. whether

'minimum' or 'maximum' harmonisation is being sought. It is understood that NCAs could choose to go further than any Guidelines issued by EIOPA which, in the view of stakeholders, may not be desirable or practical.

- 3.31. In fact NCAs may have current legislation or regulation that already go beyond the provisions set by the Guidelines and may also do it in future, to the extent that it is consistent with Union law as Solvency II Directive entered into force on the 6 January 2010 (Article 311).

Status of the Explanatory Text

- 3.32. Stakeholders commented on the status of the Explanatory Text. Stakeholders pointed out that the Explanatory Text should not provide a further layer of requirements, as it was not subject to public consultation.
- 3.33. EIOPA would like to clarify that the Explanatory Text is not subject to the comply-or-explain obligation. The aim of the Explanatory Text is to provide illustrations on how Guidelines or certain parts of them can work in practice, adding cross references, concrete applications or examples without creating new obligations that should be complied with. Its content is intended to offer support to the users of the Guidelines and therefore it does not need to be publicly consulted.
- 3.34. In the Explanatory Text, examples of good practices are given, i.e. it shows in more detail on case by case basis examples on how proportionality can be applied, and it presents as well tables in order to help visualise certain structures on an exemplary basis.

Application by third countries

- 3.35. Stakeholder argued that it would be inappropriate any extra-territoriality to be applied on an interim basis. They believe that only EEA undertakings should be subjected, directly or indirectly, to requirements at this stage which require any degree of adaptation to the Solvency II regime.
- 3.36. EIOPA does not expect that supervisory authorities in third countries apply the preparatory Guidelines. The Guidelines are not subject to equivalence analysis nor do they pre-empt any decision taken in past or future by the European Commission regarding equivalence.
- 3.37. In the CP No. 13/010 and in the revised preparatory Guidelines it was clarified that "When the deduction and aggregation method is applied, insurance and reinsurance groups are allowed to use solvency capital requirements and eligible own funds of related third country undertakings calculated according to their local rules for the purposes of these Guidelines only, and without prejudice to any future European Commission equivalence determinations and any future decisions of group supervisors", meaning that all third countries would be considered equivalent during the preparatory phase regardless of any equivalence analysis conducted or applied for.
- 3.38. Notwithstanding this, with regard to pillar II requirements as the preparatory System of Governance and the Forward Looking Assessment of Own Risks EIOPA assumes that third country supervisors have similar

parts of risk management in their national requirements, as the preparatory Guidelines where these follow international standards.

- 3.39. When referring to group structures or group level the preparatory Guidelines apply to EEA groups only. They do not apply to branches of third country (re)insurance companies set up in the EEA.

Comply-or-explain mechanism

- 3.40. Article 16 of the EIOPA Regulation sets out that NCAs have to report to EIOPA within 2 months from the publication of the Preparatory Guidelines whether they comply or intend to comply with each Guideline. In case NCAs do not comply with a guideline they need to provide an explanation about the reasons for non-compliance. Such obligation is set in Article 16 of the EIOPA Regulation.
- 3.41. The answers on comply-or-explain provided by NCAs will be made publicly available by EIOPA. In the cases of not compliance, the reasons will be kept confidential unless agreed otherwise by the Board of Supervisors.
- 3.42. The NCAs replies provided during the comply-or-explain will be updated later on after the submission of the progress report by NCAs to EIOPA.
- 3.43. EIOPA recognises that in a significant number of member states, the NCA does not have the legal competence to enact the relevant financial legislation and is dependent on the powers bestowed upon it.
- 3.44. If NCAs don't comply with the Guidelines then, by nature EIOPA expectations on NCAs actions need to be considered accordingly.

Progress report

- 3.45. The progress report is a tool to facilitate communication between EIOPA and the NCAs but it is not part of the requirements for preparation towards Solvency II.
- 3.46. NCAs are required to submit a progress report to EIOPA by the end of February during two years after the application of the Guidelines. The first NCA's progress reports should be submitted by 28 February 2015, based on the period from 1 January 2014 to 31 December 2014.
- 3.47. It is up to the NCAs to decide how the level of detail of the information given to EIOPA in the progress reports and how this information has to be gathered at national level.

III. Specific issues raised by respondents

Link to the agreement for OMDII

- 3.48. Respondents wonder what will happen if there is no agreement for OMDII in 2013 and ask EIOPA to provide clarification as to how further delays to the introduction of Solvency II would affect these Guidelines.

- 3.49. If the assumptions that 2013 will see an agreement on the OMDII and that Solvency II starts on 1 January 2016 should turn out not to be valid, this would not affect the performance of the assessment of the overall solvency needs as such and undertakings would still be expected to perform the assessment from 2014 onwards. The assessment of the overall solvency needs of an undertaking is seen as independent of the result of the discussions on OMDII. So the assessment can be carried out on a best effort basis from the year 2014 onwards.
- 3.50. Concerning the assessment of the continuous compliance with regulatory capital requirements and the requirements on technical provisions and the assessment of the significance of the deviation of an undertaking's or group's risk profile from the assumptions underlying the SCR calculation according to the standard formula EIOPA will provide technical specifications for these assessments. Under the assumption that the pillar I requirements are available in time for NCA's and undertaking, EIOPA will prepare in 2014 technical specifications on pillar I quantitative issues and provide guidance on the assumptions underlying the calculation of the standard formula calculation, which reflect the decision on OMDII. Consequently, and still under this assumption, the timelines for these assessments are deferred to 2015 once the technical specifications have been provided; please refer the section below on timing and application issues.
- 3.51. EIOPA will decide on those technical specifications and review the deadlines for the submission of information and the later assessments for the Forward Looking Assessment at the end of 2013 based on the latest developments. A revision clause will be introduced in the Guidelines accordingly. Please refer to the general comments above 'Status of Solvency II Directive and Delegated Acts (Implementing measures and Technical Standards)'.

Double burden during the preparatory phase

- 3.52. According to some stakeholders the preparatory Guidelines require undertakings to operate under dual regulatory requirements. This is seen as inefficient and overly burdensome in terms of efforts and resources needed.
- 3.53. The performance of the forward looking assessment of own risks does not result in a "parallel run" of two different regulatory regimes. However, the change to a materially different regulatory regime inevitably requires that undertakings already consider the coming changes in the last phase of the old regime. It is no longer possible to take decisions without taking into account the effect these will have under the new regime, which is especially true for the forward looking assessment. Even without a "preparatory phase" undertakings would have to consider their solvency needs and new regulatory capital needs well before the start of Solvency II in order to allow for sufficient time to establish what changes are needed and plan how to best introduce the necessary measures. Uncertainty about

the final outcome of the quantitative requirements does not justify postponing preparation for Solvency II. In addition please see in the general comments above the section on 'Purpose of the preparatory phase'.

Internal model users

- 3.54. Stakeholders claim that it would be unduly burdensome and penalise undertakings and groups that are under the pre-application process for an internal model to require that they additionally perform the assessment on the basis of the standard formula. They argue that the extra time this would require is better used focussing on the preparedness of internal models. Another concern is that the standard formula should not be used as a benchmark for internal models either explicitly or implicitly.
- 3.55. Requiring additional consideration of the standard formula has nothing to do with an intention to benchmark the internal model. Proper preparation for Solvency II involves taking into account contingencies. Undertakings and groups which are under the pre-application process for an internal model cannot be sure that their internal model will meet all necessary requirements for supervisory approval by the time Solvency II starts. They have to consider what their regulatory capital requirements could amount to if they have to use the standard formula at first as well as the capital planning implications in such case.
- 3.56. It is not sufficient to make a qualitative assessment of the impact of the use of the standard formula. The undertaking is expected to fully understand the implications of the non-approval of the internal model in order to be able to establish a contingency plan.

Timing and application issues

- 3.57. There is a considerable degree of confusion among stakeholders with regard to the meaning of the performance of the assessment of the overall solvency needs "as of 2014", with stakeholders asking whether this means that the assessment can be performed in 2015 based on end of 2014 data. Or as a second and third option that the assessment must be completed by 31 December 2013 or that the first assessment must have started as at a date no later than 2014.
- 3.58. In order to have a sufficient level of preparation, EIOPA considers it necessary that all undertakings perform the assessment of the overall solvency needs at least two times during the preparatory phase, once in 2014 and once in 2015. As a consequence, "from 2014 onwards" means that the first assessment of overall solvency needs, as part of the forward looking assessment, is expected to be performed at any time during the year 2014.

- 3.59. Taken on board stakeholder comments EIOPA has decided that for undertakings within the market threshold the initial performance of the assessment of the continuing compliance with the capital requirements and the requirements on technical provisions, also as part of the forward looking assessment, has been deferred until 2015, once the technical specifications have been provided. This clarification also applies to the assessment of the significance of the deviation of assumptions underlying the SCR calculation for those undertakings within the threshold not involved in the pre-application process for internal models. Please see in addition the resolution given above in the section 'Link to the agreement for OMDII'.
- 3.60. Whilst the reference date for the forward looking assessment would under normal circumstances be the same as for a SCR calculation date, this does not necessarily have to be the SCR calculation for 31 December of a particular year but could be a SCR calculation at any time during that year. EIOPA would like to emphasise that it is for the undertaking to decide on the appropriate reference date for its FLAOR.

Forward looking assessment policy

- 3.61. Documentation during the preparatory phase is an issue of concern to some stakeholders who suggest that full documentation requirements should only apply after the start of Solvency II. One area where stakeholders want to see reduced expectations is with regard to the forward looking assessment policy.
- 3.62. The forward looking assessment policy sets out the roles and responsibilities of the undertaking's staff members involved in the forward looking assessment and how the assessment is to be performed. This is necessary to ensure that the forward looking assessment provides appropriate results and meets its core objectives. Accordingly, it is necessary for undertakings to develop a full policy during the preparatory phase. EIOPA is aware that the policy may be changed from one assessment to the next. This is not unusual for policies and no reason not to put a once completed policy in place. Policies are not stable over a long period of time and therefore necessarily subject to change. All policies need to be reviewed on a regular basis which implies that there may be changes.
- 3.63. EIOPA would like to emphasise that the policy on FLAOR may be part of the policy on risk management. If this is the case the parts or chapters on FLAOR need to be clearly identifiable. It is the undertaking's decision if and how those two policies are linked to each other.

Record of the Forward-looking Assessment

- 3.64. A number of stakeholders are of the opinion that during the preparatory phase NCAs should not expect undertakings to provide a full record of the forward-looking assessment. Stakeholders are claiming that is not

appropriate to expect that all these provisions in terms of evidence and documentation are met during the preparatory phase.

- 3.65. EIOPA considers the record to be no less, but maybe even more important during preparation than after the start of Solvency II. Preparation requires that an undertaking prepares for all aspects of the requirements it has to comply with, including appropriate documentation. Hence, the undertaking is expected to make any effort to record the forward looking assessment of own risks (based on ORSA principles) in the appropriate way as it will be required to do under Solvency II.

Supervisory Report

- 3.66. Some respondents propose that the supervisory reporting on the forward looking assessment should only start in 2015, in line with the first time that information has to be submitted to NCAs during the preparatory phase. Stakeholders ask for additional time to implement the necessary processes. Another suggestion is that during the preparatory phase the internal report should always be accepted for reporting purposes to the NCA.
- 3.67. In addition stakeholders have a number of questions with regard to the two week's timeline after the conclusion of the assessment for submitting the report on the forward-looking assessment to the NCA concerned. It is suggested that the timeline is too ambitious for the preparatory phase and stakeholders ask what "conclusion of the assessment" means and whether there will be additional time after the internal report for preparing the supervisory report.
- 3.68. EIOPA believes that for the supervisory report on the forward looking assessment the challenge of preparation is not so much IT related as for example for the submission of information, but rather how to prepare the report as such. The format of the FLAOR report is up to the decision of the undertaking itself. Consequently, there is no reason to waive the requirement to submit a supervisory report on the first assessment of the overall solvency needs. EIOPA does however not expect that the first report will necessarily already be perfect. EIOPA anticipates that there will be improvements from one report to another until the undertaking finally settles on what is the most appropriate form of the report.
- 3.69. EIOPA expects undertakings during the preparatory phase to submit a report on the results and conclusion of the forward-looking assessment within two weeks of having finished the assessment. Meeting those deadlines is seen as part of the preparation. As explained in the Explanatory Text, in order for the assessment to be considered concluded the AMSB has to sign it off thus signifying what it accepts as the final result of the assessment. This is the start of two weeks period to submit the supervisory report to the NCA concerned, as clarified in the Guidelines.

- 3.70. EIOPA is aware that undertakings will need time after the initial assessment to reach the final result of the assessment and that on occasion this may take a little longer if there are disagreements internally in the undertaking to be resolved. The undertaking is however not supposed to extend the time between assessment and sign-off beyond what is needed for the purpose of reaching a conclusion.
- 3.71. The timeline for the submission is two weeks to ensure that the NCA receives up-to-date information about the forward looking assessment. There is no extension of the timeline in the probably exceptional case where the undertaking does not or cannot use its internal report on the forward looking assessment for reporting to the NCA. I.e. undertakings may then have to prepare the supervisory report in parallel to the internal report to be able to meet the deadline.

Role of the AMSB

- 3.72. Concerning the active role that is required of the AMSB it is being claimed that EIOPA cannot reasonably expect that the AMSB would be able to steer the FLAOR and “challenge” the results as from day one. Stakeholders also suggest that it be made possible to delegate to committees of the AMSB or to senior management.
- 3.73. The forward-looking assessment of the own risks is the key element of the system of governance of an undertaking under a risk based approach. And as such the FLAOR might have major impact on the strategic decision-making. The importance of the forward looking assessment for the sound and prudent management of the undertaking, which is the responsibility of the AMSB, requires that the members of the AMSB are personally involved. It is not acceptable that the AMSB delegates the full responsibility for the forward looking assessment to committees of the AMSB or to senior management, the risk management function or another special committee. EIOPA is aware that it will be challenging for some AMSBs to fulfil the active role required of them. However EIOPA sees it as necessary for undertakings to make all efforts to develop a top-down approach starting in the preparatory phase and not postpone this until after the start of Solvency II.
- 3.74. EIOPA is aware that the active role of the AMSB requires a certain level of expertise. However, the necessary qualifications for providing for the sound and prudent management of the undertaking that all members of the AMSB are required to possess include that they individually possess sufficient understanding of the core business of the undertaking. This is contained in the forward looking assessment of own risks, i.e. what risks the undertaking is or could be exposed to and how its risk profile translates into regulatory capital requirements and overall solvency needs.

Approval of the assessment and information sharing

- 3.75. Stakeholders question the legal basis for the requirement of the AMSB to approve the assessment of the own risk and solvency assessment and to communicate to all relevant staff at least the results and conclusions regarding this assessment. Some ask for clarification whether the communication has to be performed by the AMSB personally.
- 3.76. As an integral part of the business strategy that needs to be taken into account on an ongoing basis in the strategic decisions of the undertaking, the forward looking assessment of own risks provides major input to the high level decisions of the undertaking. The AMSB has to take responsibility that this decision-making basis is sound and correctly reflects the risk profile and capital needs of the undertaking.
- 3.77. Undertakings are required to provide for a system of governance that includes an effective system for ensuring the transmission of information. Such general exchange of information is necessary so that all personnel of the undertaking concerned are in possession of the relevant information for the proper discharge of their responsibilities. As it also may contain potentially sensitive data about the undertaking it is for the AMSB to decide which parts of the information will be distributed to whom.

Valuation and recognition of the overall solvency needs

- 3.78. Guideline 11 on the valuation and recognition bases for the overall solvency needs is generally considered to be unsuitable for the preparatory phase by respondents who claim that this would already impose Solvency II Pillar I calculations on all undertakings. Instead and in the light of the proportionality principle undertakings should be allowed to use local recognition and valuation bases. The latter are also the basis for their regulatory requirements or any other risk measurement approaches which they consider to properly reflect the nature, scale, and complexity of their business.
- 3.79. The Guideline does not prohibit undertakings from using valuation and recognition bases that are different from the Solvency II bases, such as local recognition and valuation bases (or statutory accounting), in the assessment of their overall solvency needs. They cannot however simply do so because this is easier for them than relying on Solvency II bases. Instead EIOPA expects from undertakings, which have decided to use other bases, to show that this is the more appropriate approach for them during the preparatory phase.
- 3.80. EIOPA has amended the Guideline to clarify that the quantitative estimate of the impact of any different recognition and valuation bases on the overall solvency needs assessment is expected on a best effort basis during the preparatory phase.
- 3.81. Furthermore, to address stakeholders' concern, EIOPA decided that the requirement to quantitatively estimate the impact of the different

recognition and valuation bases only have to be applied in 2015 once the technical specifications have been provided by EIOPA, so that undertakings can use those specifications to make this estimation.

Assessment of the overall solvency needs

- 3.82. Some stakeholders are of the opinion that it should be sufficient during the preparatory phase that undertakings develop necessary steps to prepare for this assessment instead of actually performing it as this is seen as requiring full compliance ahead of the implementation date of Solvency II. Others argue that undertakings should be given the year 2014 for preparing for the assessment and should only actually be required to perform it at the end of the preparatory phase.
- 3.83. EIOPA considers it essential for the preparedness of undertakings for Solvency II that all undertakings perform the overall solvency needs assessment from 2014 onwards. The concept of establishing how much capital it is appropriate for the undertaking to hold instead of simply relying on the regulatory capital requirements should be familiar to undertakings even though EIOPA acknowledges that the requirement for doing so is new. What is probably a novel experience and what undertakings need to prepare for through practice are the processes for governing the assessment. EIOPA also expects that it will take several years of performing annual assessments before the quality of the assessment has reached a level that is considered fully satisfactory from the point of view of the undertaking as well as the NCA. This is an area where gaining practical experience is called for and mere planning of processes and procedures does not ensure this necessary experience and therefore appropriate preparation.

Assessment of the continuous compliance with the capital requirements and the requirements on technical provisions

- 3.84. A majority of stakeholders considers this requirement to be critical since it calls for pillar I calculations and projections ahead of the implementation date of Solvency II. Some argue that EIOPA should wait for the political process on Pillar I elements to be finalised. Other object on the basis that it would subject undertakings to a second set of regulatory requirements which would be inefficient and costly for undertakings. Another view is that continuous compliance should not require a full calculation of the regulatory capital requirements over the business planning period but that estimations, taking into account material changes in risk profile, should be sufficient.
- 3.85. EIOPA expects all undertakings at least to prepare the necessary processes and procedures to be ready at the start of Solvency II for the assessment of the continuous compliance with the capital requirements and the requirements on technical provisions. Those undertakings within the threshold should additionally perform this assessment already during the preparatory phase. The actual performance will intensify the learning

process for the undertakings concerned and help to improve the quality of the assessment over time. EIOPA is aware that undertakings will need to gain experience with the assessment before it can be performed to a level that is appropriate to the importance of this assessment. Please refer to as well to the general comments made above in the section for the purpose of the preparatory phase.

- 3.86. During the preparatory period, undertakings have to be alert to the possibility that the assessment may not necessarily yield a positive result with regard to the continuous compliance with the capital requirements and the requirements on technical provisions.
- 3.87. On account of stakeholders' comments EIOPA has decided to postpone the actual performance of the assessment of the continuous compliance for undertakings within the threshold to 2015 after the publication of related technical specifications. Undertakings are asked to be aware from the beginning of the preparatory phase how their capital requirements will change with the introduction of Solvency II. EIOPA believes that it might take preparation and time for ensuring that undertakings are able to meet these new capital requirements from day one of Solvency II.
- 3.88. Proper preparation calls for preparing for the final requirements not for some "lighter version" of these. Therefore undertakings should make the effort of projecting regulatory capital requirements for several years as they will be required to do once Solvency II starts. The projection can be made on a best effort basis and needs to be proportionate to the undertaking's needs.

Assessment of the significance of the deviation of the risk profile

- 3.89. Stakeholders in general object to the requirement to perform that assessment of the significance of the deviation of their risk profile from the assumptions underlying the SCR calculation according to the standard formula (hereafter: underlying assumptions). They claim that this is very challenging and requires Pillar I calculations and that it would be difficult to perform the assessment as the relevant assumptions are not generally known to undertakings. The performance will create a considerable extra burden for the undertakings involved as stated by stakeholders.
- 3.90. On account of the stakeholder comments EIOPA has decided to postpone the performance of the assessment of the significance of the deviation of the risk profile for undertakings within the threshold to 2015, too, after the publication of technical specifications. EIOPA has already acknowledged that in order to facilitate these assessments undertakings will need to be provided with relevant information about the underlying assumptions, see EIOPA Final Report on Public Consultation No. 11/008 On the Proposal for Guidelines On Own Risk and Solvency Assessment from July 2012: <https://eiopa.europa.eu/consultations/consultation-papers/2011-closed-consultations/november-2011/solvency-ii-consultation-paper-on-the-proposal-for-guidelines-on-own-risk-and-solvency-assessment/index.html>

EIOPA is currently working on a document that sets out these assumptions which will be published in relation to the technical specifications and therefore be ready for undertakings when the assessment needs to be performed during the preparatory phase (see also section above on timing and application issues).

- 3.91. EIOPA does not deny that performing the assessment will require considerable efforts from the undertakings concerned. However, it also carries benefits. As part of the preparation for Solvency II undertakings are expected to consider whether the standard formula appropriately reflects their risk profile and start to plan ahead if this should not be the case.
- 3.92. Referring to the Explanatory Text stakeholders request that EIOPA should introduce into the Guidelines the clarification that a qualitative assessment as a first step could be sufficient to perform the assessment if there is no indication that the deviation is significant.
- 3.93. EIOPA has redrafted Guideline 16 according to this request to reflect that quantification is not always necessary.

Group definition

- 3.94. Comments were raised by stakeholders on the exact scope of the group FLAOR and whether third country based groups are also required to perform FLAOR. It was perceived as unclear what definition of a group should be used.
- 3.95. Regarding the definition of the group, the definition used within Solvency II Directive needs to be used. The Guidelines are meant to serve a preparation towards Solvency II. In this context it is logical that also the group definition of Solvency II Directive should be used. The definition of a group in the Directive does not differ essentially from the definition that is commonly used under Solvency I. Nevertheless it may include an element of judgment of the Group supervisor (and of the group itself, too). It is also important to refer to the provision made in the preparatory Guidelines on submission of information for this issue.

Scope of group FLAOR

- 3.96. Some stakeholders asked for clarifications how the FLAOR should be performed for non EEA undertakings, third country branches and also Groups based in a non EEA country
- 3.97. Concerning the scope of the FLAOR at group level, Guideline 19 explicitly includes all the entities that are within the scope of group supervision, but does not limit the group to that scope. The scope can be extended depending on how the group views itself. On the other hand, the scope of the group FLAOR cannot be less than the scope of group supervision.

- 3.98. This means in particular that non EEA entities that are included in the group supervision of a group based in the European Economic Area (EEA) should be included in the group FLAOR assessment, even if these non EEA entities do not have to perform a FLAOR at individual level.
- 3.99. The FLAOR requirements applicable to groups in Solvency II Directive are limited to groups based in the European Union (EU). EIOPA does not expect that supervisory authorities in third countries apply the preparatory Guidelines. The preparatory Guidelines do not apply to branches set up in the EEA of third country (re)insurance companies. Please refer to the part of this Final Report on general comments.

Consistent implementation across the EEA

- 3.100. Comments were made regarding the consistent implementation of the FLAOR preparatory Guidelines across the EEA. It is criticised that differences in implementation by NCAs will cause an additional workload for groups.
- 3.101. EIOPA recognises that due to the comply-or-explain mechanism of the preparatory Guidelines differences may occur across the EEA. This is true for FLAOR on individual entity and on group level. The groups as a whole are required to perform the group FLAOR set out by the relevant NCA in that country in which the parent undertaking is licensed.

The role of the group AMSB in the single FLAOR

- 3.102. Stakeholders have identified a need for clarity on the role of the undertaking's AMSB at group level in the FLAOR for both a) the assessment made at individual level and b) in case a group wishes to apply for the use of a single FLAOR.
- 3.103. Taking into account the principles set out in Solvency II Directive, the AMSB of the individual undertaking in a group structure remains the main reference and thus responsibility for the individual FLAOR. The AMSB on the group level should not impair the responsibility on individual level.
- 3.104. In the case a group decides to apply for the use of a single group FLAOR documents, the AMSB of the individual undertaking (or sub-group i.e. on national level) has to assure that the risks related to the individual undertaking (or to the sub-group) is properly represented in the single FLAOR.
- 3.105. It is seen as very important, as requested by the preparatory Guidelines, that the interrelations and the responsibilities between AMSB for the group and the AMSB for the individual entity are clearly defined.

Assessment of the deviation of the risk profile from the assumptions underlying the SCR by groups with a (partial) internal model under pre-application

- 3.106. Stakeholders asked if groups applying for a (partial) internal model have to perform the assessment of the deviation of the risk profile from the assumptions underlying the SCR calculation even in those entities which are not included in the partial internal model.
- 3.107. EIOPA does not expect groups engaged in a pre-application process for a partial internal model for the calculation of the group SCR to perform the assessment of the deviation of the risk profile from the assumptions underlying the SCR calculation, in line with Guideline 16 in relation to Guideline 3, and taking into account as well the preparatory Guideline 24 for the group forward looking assessment. Nevertheless the related undertakings of such groups, when they would use the SF for the calculation of their individual SCR, are expected to perform this assessment on an individual entity level when applicable.

IV. Comments from Insurance and Reinsurance Stakeholders' Group (IRSG)

- 3.108. IRSG generally supports EIOPA's decision to provide preparatory Guidelines on the forward looking assessment of own risks (based on ORSA principles).
- 3.109. End of 2011 EIOPA publicly consulted a previous draft of these Guidelines with stakeholders including IRSG. The comments received from this consultation have been discussed within EIOPA and have changed the Guidelines where it was deemed appropriate, please see the Final Report of 2012:
<https://eiopa.europa.eu/consultations/consultation-papers/2011-closed-consultations/november-2011/solvency-ii-consultation-paper-on-the-proposal-for-guidelines-on-own-risk-and-solvency-assessment/index.html>
- 3.110. EIOPA would like to thank IRSG for the constructive and effective cooperation during the previous and the current public consultation.
- 3.111. Many issues, which IRSG raises in this public consultation in 2013, are already reflected upon in this Final Report. Please see the general comments and the specific comments above. EIOPA would especially like to point out to those answers given under the sections 'purpose of the preparatory phase' and 'link to the agreement on OMD II'.

Assessment of the overall solvency needs

- 3.112. IRSG comments that there is little room for an “own risk and solvency assessment”, meaning for economic capital reflecting how the company consider its risk exposure. The group criticizes that it will not help undertakings to draw management attention on the results of the FLAOR.
- 3.113. EIOPA would like to point out that the FLAOR (and later the ORSA under full applicable Solvency II) gives a lot of freedom to undertakings to decide on their FLAOR (respectively ORSA). This is especially true on the format and content of the internal report in order to fully reflect the undertaking’s risk profile and its overall solvency needs.
- 3.114. Those two issues, risk profile and overall solvency needs, are key factors of (re)insurance business in EIOPA’s opinion. And as such they deserve the attention of the AMSB regardless of the regulatory basis the undertaking is facing. With the preparatory Guidelines EIOPA aims to provide incentives to implement, run and report on a true process, which is internally trusted by the undertaking. For the assessments, EIOPA would like to encourage undertakings to choose methodologies reflecting their current internal management understanding of risk exposure and solvency position.

Involvement of sub-committees at the level of the AMSB

- 3.115. With relation to the proportionality principle, IRSG asks if it is possible for the AMSB to delegate to any sub-committee which could tackle relevant issues of the FLAOR. IRSG is of the opinion that the composition of this committee should be balanced in order to reflect the diversity of the AMSB.
- 3.116. EIOPA does not intend to give guidance to the AMSB how to fulfill its responsibility and duties. The involvement of any sub-committee does not take away the ultimate personal responsibility of all AMSB members for the FLAOR. A sub-committee can help to fulfill this responsibility but should not replace the AMSB’s responsibilities.

Stress testing and documentation

- 3.117. IRSG feels that the specification of ‘stress tests, sensitivity analyses and reverse stress tests’ is too precise and more flexibility should be granted to the undertaking. On similar lines, IRSG suggests that full documentation of the record of each ORSA process should be required only when the process is fully implemented under Solvency II.
- 3.118. EIOPA is of the opinion that stress testing is an essential activity in determining solvency levels under various risk scenarios. Therefore EIOPA expects undertakings during the preparatory period to develop first processes and methodologies which will then allow them to carry out these tests. By extension, EIOPA believes that it is important that there is

a full record and documentation surrounding the FLAOR in this preparatory period to prepare properly for Solvency II.

Communication to especially interested classes of stakeholders

- 3.119. IRSG would like to see the opportunity that the FLAOR report has to be communicated to specifically interested classes of stakeholders including workers' council or any equivalent body.
- 3.120. As stated in the Guidelines the undertaking has the obligation to inform relevant staff members inside their undertaking about the major outcomes of the FLAOR. EIOPA would like to emphasize again that it is the decision of the undertaking's AMSB with whom the information should be shared. This principle applies to information sharing internally within the undertaking as well as with external third parties.
- 3.121. EIOPA expects further clarification on the requirement to disclose the ORSA coming from the future Implementing Measures. For the preparatory phase EIOPA is therefore not of the opinion that the undertaking is expected to share its full internal FLAOR report in an overall general disclosure with all internal and external stakeholders if they do not wish to do so. The FLAOR may be a sensitive document for the management of business and should be treated as such during the preparatory phase.
- 3.122. Second, the aim of the FLAOR supervisory report as seen by EIOPA is to serve as an important tool to foster an efficient and effective dialogue between the undertaking and its supervisors. EIOPA strongly believes that such a dialogue based on trust would not develop if the FLAOR supervisory report would be made publicly available in large parts during the preparatory phase.

4. Revised Guidelines

Introduction

- 4.1. According to Article 16 of Regulation (EU) 1094/2010 of 24 November 2010 (hereafter, EIOPA Regulation)² EIOPA issues Guidelines addressed to National Competent Authorities (NCAs) on how to proceed in the preparatory phase leading up to the application 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)³.
- 4.2. These Guidelines are based on Article 41, Article 44, Article 45 and Article 246 of Solvency II Directive.
- 4.3. 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.
- 4.4. 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 that supervisors have sufficient information at hand. These areas are the system of governance, including risk management system and a forward looking assessment of own risks (based on the Own Risk and Solvency Assessment principles, known as ORSA), pre-application for internal models, and submission of information to competent authorities.
- 4.5. 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.
- 4.6. 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 appropriate steps to full implementation of Solvency II.
- 4.7. 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.

² OJ L 331, 15.12.2010, p. 48–83

³ OJ L 335, 17.12.2009, p.1-155

- 4.8. In the preparatory phase national competent authorities are expected to ensure that insurance and reinsurance undertakings take a forward looking view on the risks to which they are exposed similar to what they will have to do once Solvency II will apply. For this, it is expected that insurance and reinsurance undertakings actively prepare and begin the implementation of the forward looking assessment of own risks (based on the ORSA principles) according to Article 45 of Solvency II Directive.
- 4.9. Since the assessment of the overall solvency needs can be undertaken irrespective of what regulatory quantitative requirements are applicable, national competent authorities are expected to ensure that undertakings perform such an assessment starting from 2014.
- 4.10. The assessment of the continuous compliance with regulatory capital requirements and the requirements on technical provisions according to Article 45(1) (b) and the assessment of the significance of the deviation of the risk profile of an undertaking from the assumptions underlying the calculation of the SCR according to Article 45(1) (c) of Solvency II Directive have a strong connection to Solvency II quantitative requirements which are not yet applicable during the preparatory period.
- 4.11. As all the issues that would need to be covered by the assessment of the significance of their risk profile deviating from the assumptions underlying the SCR calculation are already addressed through the pre-application process for internal model users, national competent authorities are not expected to ensure that undertakings which are in the pre-application process perform such an assessment in their forward looking assessment of own risks.
- 4.12. The Guidelines focus on what is to be achieved by this assessment rather than on how it is to be performed. For example, since the assessment of overall solvency needs represents the undertaking's own view of its risk profile, and the capital and other means needed to address these risks, the undertaking should decide for itself how to perform this assessment given the nature, scale and complexity of the risks inherent in its business.
- 4.13. These preparatory Guidelines include a Guideline for a report on the forward looking assessment of own risks. This report is meant to provide necessary information to the supervisor on the assessment made.
- 4.14. EIOPA acknowledges and supports the developments and achievements on a global scale and national level outside the European Union with regard to setting standards for Own Risk and Solvency Assessments with a forward looking perspective. But EIOPA does not expect that supervisory authorities in third countries apply the preparatory Guidelines. The Guidelines are not subject to equivalence analysis nor do they pre-empt any decision taken in past or future by the European Commission regarding equivalence. When referring to group structures or group level

the preparatory Guidelines apply to EEA groups only, not to branches set up in the EEA of third country (re)insurance companies.

- 4.15. It is crucial that the administrative, management or supervisory body (AMSB) of the undertaking is aware of all material risks the undertaking faces, regardless of whether the risks are captured by the SCR calculation and whether they are quantifiable or not. It is also vital that the AMSB takes an active role in the forward looking assessment of own risks by directing the process and challenging the outcome.
- 4.16. In case a group wishes to apply for the use of a single group forward looking assessment of own risks document this requires a high level of consistency in processes across the group.
- 4.17. The Guidelines apply to both individual undertakings and at the level of the group. Additionally, the Guidelines address issues relevant to the group specificities of the forward looking assessment of own risks, in particular on account of specific risks to the group or risks that could be less relevant at individual level than at group level.
- 4.18. The relevant Guidelines for individual undertakings apply *mutatis mutandis* to the group forward looking assessment of own risks. Additionally, groups need to take into consideration the group specific Guidelines.
- 4.19. Internal models users which are in the pre-application process for internal models are expected to prepare for the use of the internal model in the assessment of their overall solvency needs. Therefore, for the purposes of performing this assessment during preparatory phase, internal models users which are in the pre-application phase should be allowed to use the internal model.
- 4.20. For the purpose of these Guidelines, the following definitions have been developed:
 - a) "forward looking assessment of own risks" which is used in the Guidelines: is meant to be identical to "forward looking assessment of own risks (based on ORSA principles)"
 - b) "group level": means a coherent economic entity (holistic view) comprising all entities in the group as referred to in the Guidelines on the system of governance;
 - c) "the responsible entity" which is used in the group specific Guidelines as the entity responsible for fulfilling the governance requirements at group level;
 - d) "group forward looking assessment of own risks": means the forward looking assessment of own risks undertaken at group level; and
 - e) "single forward looking assessment of own risks' document": means the single forward looking assessment of own risks undertaken at the level of the group and at the level of any subsidiary of the group on

the same reference date and period formalised in one document when supervisory agreement is given to do so.

4.21. The Guidelines shall apply from 1 January 2014.

Section I: General Provisions for preparatory Guidelines

Guideline 1 - General provisions for Guidelines

- 4.22. As part of the preparation for the implementation of Solvency II, national competent authorities should take the appropriate steps in order to put in place from 1 January 2014 the present Guidelines on the forward looking assessment of own risks (based on the ORSA principles).
- 4.23. National competent authorities should ensure that insurance and reinsurance undertakings and groups take the appropriate steps to
- a. establish a process to develop a forward looking assessment of own risks; and
 - b. compile qualitative information supporting the forward looking assessment of own risks that will allow national competent authorities to review and evaluate the quality of the process.

Guideline 2 - Progress report to EIOPA

- 4.24. 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.

Guideline 3 - Applicability of the threshold for the forward looking assessment of own risks

- 4.25. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that all undertakings and groups falling under Solvency II Directive perform an assessment of their overall solvency needs, starting in 2014.
- 4.26. National competent authorities should require that undertakings representing at least 80% of the market share as defined in Guideline 5 to 7 in the "Guidelines on submission of information to national competent authorities" perform an assessment of whether the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements on the Solvency II technical provisions starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital requirements and on the calculation of technical provisions will be provided.
- 4.27. National competent authorities should require that groups submitting annual quantitative information as defined in Guideline 9 in the "Guidelines on submission of information to national competent authorities" perform an assessment of whether the group would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements on the Solvency II technical provisions starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital

requirements and on the calculation of technical provisions will be provided.

- 4.28. National competent authorities should allow that undertakings and groups which are in the pre-application process for an internal model make use of this model for the purpose of the assessments on regulatory capital requirements, provided that the undertakings and groups concerned also perform the assessment for preparing for the eventuality that the application to use the internal model under Solvency II would be rejected by the national competent authority.
- 4.29. Where an undertaking which is not in the pre-application process for an internal model falls within the threshold referred to in the paragraph 1.26 and a group falls within the threshold referred to in paragraph 1.27., for the calculation of the Solvency II regulatory capital requirements national competent authorities should require the undertaking or the group to perform an assessment of the significance of the deviation of its risk profile from the assumptions underlying the Solvency II Solvency Capital Requirement calculation, starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital requirements and on the calculation of technical provisions will be provided.

Section II: Forward Looking Assessment of Own Risks

Guideline 4 – Proportionality

- 4.30. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking develops for the forward looking assessment of own risks its own processes with appropriate and adequate techniques, tailored to fit into its organisational structure and risk-management system and taking into consideration the nature, scale and complexity of the risks inherent to the business.

Guideline 5 – Role of the administrative, management or supervisory body: top-down approach

- 4.31. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the administrative, management or supervisory body of the undertaking takes an active part in the forward looking assessment of own risks, including steering, how the assessment is to be performed and challenging the results.

Guideline 6 – Documentation

- 4.32. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking has at least the following documentation on the forward looking assessment of own risks:
- a) The policy for the forward looking assessment of own risks;
 - b) record of each forward looking assessment of own risks;

- c) an internal report on each forward looking assessment of own risks;
and
- d) a supervisory report of the forward looking assessment of own risks.

Guideline 7 – Policy for the forward looking assessment of own risks (based on the ORSA principles)

4.33. In accordance with Articles 41 and 45 of Solvency II Directive, national competent authorities should ensure that the administrative, management or supervisory body of the undertaking approves the policy for the forward looking assessment of own risks. This policy should include at least:

- a) a description of the processes and procedures in place to conduct the forward looking assessment of own risks;
- b) a consideration of the link between the risk profile, the approved risk tolerance limits and the overall solvency needs; and
- c) information on:
 - (i) how and how often stress tests, sensitivity analyses, reverse stress tests or other relevant analyses are to be performed;
 - (ii) data quality standards; and
 - (iii) the frequency of the assessment itself and the justification of its adequacy particularly taking into account the undertaking's risk profile and the volatility of its overall solvency needs relative to its capital position; and
 - (iv) the timing for the performance of the forward looking assessment of own risks and the circumstances which would trigger the need for a forward looking assessment of own risks outside of the regular time-scales.

Guideline 8 – Record of each forward looking assessment of own risks (based on the ORSA principles)

4.34. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking appropriately evidences and internally documents each forward looking assessment of own risks and its outcome.

Guideline 9 – Internal report on the forward looking assessment of own risks (based on the ORSA principles)

4.35. In accordance with Article 41, 44 and 45 of Solvency II Directive, national competent authorities should ensure that the undertaking communicates to all relevant staff at least the results and conclusions regarding the forward looking assessment of own risks, once the process and the results have been approved by the AMSB.

Guideline 10 – Supervisory Report of the forward looking assessment of own risks (based on the ORSA principles)

- 4.36. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking submits the supervisory report of the forward looking assessment of own risks within 2 weeks of the AMSB having reviewed and approved the assessments. The supervisory report should present at least the following:
- a) the qualitative and quantitative results of the forward looking assessment and the conclusions drawn by the undertaking from those results;
 - b) the methods and main assumptions used; and
 - c) where applicable according to the thresholds introduced, a comparison between the overall solvency needs, the regulatory capital requirements and the undertaking's own funds.

Section III: Specific features regarding the performance of the forward looking assessment of own risks (based on the ORSA principles)

Guideline 11 – Valuation and recognition of the overall solvency needs

- 4.37. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking, if it uses recognition and valuation bases that are different from the Solvency II bases in the assessment of its overall solvency needs, explains how the use of such different recognition and valuation bases ensures better consideration of the specific risk profile, approved risk tolerance limits and business strategy of the undertaking, while complying with the requirement for a sound and prudent management of the business.
- 4.38. National competent authorities should ensure that the undertaking quantitatively estimates on best effort basis the impact on the overall solvency needs assessment of the different recognition and valuation bases in those cases where recognition and valuation bases that are different from the Solvency II bases have been used in the assessment of its overall solvency needs starting in 2015 under the condition that the technical specifications have been provided by EIOPA.

Guideline 12 – Assessment of the overall solvency needs

- 4.39. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking assesses its overall solvency needs and then expresses the overall solvency needs in quantitative terms and complements the quantification by a qualitative description of the material risks.
- 4.40. Where appropriate, national competent authorities should ensure that the undertaking subjects the identified material risks to a sufficiently wide

range of stress test or scenario analyses in order to provide an adequate basis for the assessment of the overall solvency needs.

Guideline 13 – Forward-looking perspective of the overall solvency needs

4.41. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking's assessment of the overall solvency needs is forward-looking, including a medium term or long term perspective as appropriate.

Guideline 14 – Regulatory capital requirements

4.42. In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that as part of this assessment the undertaking analyses whether the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and includes at least:

- a) the potential future material changes in the risk profile;
- b) the quantity and quality of its own funds over the whole of its business planning period; and
- c) the composition of own funds across tiers and how this composition may change as a result of redemption, repayment and maturity dates during its business planning period.

Guideline 15 – Technical provisions

4.43. In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that the undertakings ensures the actuarial function of the undertaking to:

- a) provide input as to whether the undertaking would comply continuously with the requirements regarding the calculation of technical provisions; and
- b) identify potential risks arising from the uncertainties connected to this calculation.

Guideline 16 – Deviations from assumptions underlying the SCR calculation

4.44. In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that the undertaking assesses whether its risk profile deviates from the assumptions underlying the Solvency II Solvency Capital Requirement calculation and whether these deviations are significant. The undertaking

may as a first step perform a qualitative analysis and if that indicates that the deviation is not significant, a quantitative assessment is not required.

Guideline 17 – Link to the strategic management process and decision-making framework

4.45. In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking takes into account the results of the forward looking assessment of own risks and the insights gained during the process of this assessment in at least:

- a) its capital management;
- b) its business planning; and
- c) its product development and design.

Guideline 18 – Frequency

4.46. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the undertaking performs the forward looking assessment of own risks at least annually.

Section IV: Specificities of the Group in the forward looking assessment of own risks (based on the ORSA principles)

Guideline 19 – Scope of group forward looking assessment of own risks (based on the ORSA principles)

4.47. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity designs the group forward looking assessment of own risks to reflect the nature of the group structure and its risk profile. All of the entities that fall within the scope of group supervision should be included within the scope of the group forward looking assessment of own risks. This should include insurance, reinsurance, non-insurance and non-reinsurance undertakings, and both regulated and non-regulated entities, situated in the EEA and outside the EEA.

Guideline 20 – Reporting to the supervisory authorities

4.48. In accordance with Articles 45 and 246 of Solvency II Directive and in case the responsible entity applies for the submission of a single forward looking assessment of own risks' document:

- a) The group supervisor should form a view whether to allow the group to perform a single forward looking assessment of own risks document, if there is no other decision process in force in the college, and if no member that would otherwise receive an individual forward looking assessment of own risks document disagrees; and
- b) where one or more of the subsidiaries has its head office in a Member State whose official languages are different from the languages in

which the single forward looking assessment of own risks document is reported, the supervisory authority concerned should consult with the group supervisor, the college of supervisors and the group itself before requiring the undertaking to translate the part of the forward looking assessment of own risks document that concerns the subsidiary into an official language of the Member State in which the subsidiary has its head office.

Guideline 21 – Assessment of the impact of group specific risks on overall solvency needs

4.49. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity in the group forward looking assessment of own risks adequately assesses the impact of all group specific risks and interdependencies within the group as well as, and the impact of these risks and interdependencies on the overall solvency needs, taking into consideration the specificities of the group and the fact that some risks may be scaled up at the level of the group.

Guideline 22 – General rule for group forward looking assessment of own risks (based on the ORSA principles)

4.50. In accordance with Articles 45 and 246 of Solvency II Directive and in accordance with Guideline 8 on the record of each forward looking assessment of own risks, national competent authorities should ensure that the responsible entity includes in the record of the group forward looking assessment of own risks at least a description on how the following factors were taken into consideration for the assessment of overall solvency needs and the assessment of continuous compliance with regulatory requirements⁴:

- a) The identification of the sources of own funds within the group and if there is a need for additional own funds;
- b) the assessment of availability, transferability or fungibility of own funds;
- c) references to any planned transfer of own funds within the group, which would have a material impact on any entity of the group, and its consequences;
- d) alignment of individual strategies with the ones established at the level of the group; and
- e) specific risks the group could be exposed to.

Guideline 23 – Specific requirements for a single forward looking assessment of own risks' document

⁴ The assessment of the continuous compliance is expected from those groups within in the threshold.

4.51. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity, when applying to submit a single forward looking assessment of own risks' document, provides an explanation of how the subsidiaries are covered and how the AMSBs of the subsidiaries are involved in the assessment process and approval of the outcome.

Guideline 24 – Internal model users

4.52. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that, in the case of an internal model pre-application, the responsible entity describes in the group forward looking assessment of own risks which entities within the group do not use the internal model to calculate their SCR and explain why this is the case.

Guideline 25 – Integration of related third-country insurance and re-insurance undertakings

4.53. In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity assesses in the assessment of the group overall solvency needs the risks of the business in third countries in a consistent manner as it does for EEA-business with special attention to the assessment of transferability and fungibility of capital.

Compliance and Reporting Rules

4.54. 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.

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

4.56. Competent authorities shall confirm to EIOPA whether they comply or intend to comply with these Guidelines, with reasons for non-compliance, within 2 months after the publication.

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

Final Provision on Review

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

4.59. In particular, the year of 2015 referred to in Guideline 3 may be revised based on the latest developments on the OMDII negotiations.

5. Revised Explanatory Text

Section I: General Provisions

Guideline 1 – General provisions for Guidelines

As part of the preparation for the implementation of Solvency II, national competent authorities should take the appropriate steps in order to put in place from 1 January 2014 the present Guidelines on the forward looking assessment of own risks (based on the ORSA principles).

National competent authorities should ensure that insurance and reinsurance undertakings and groups take the appropriate steps to

- a. establish a process to develop a forward looking assessment of own risks; and**
- b. compile qualitative information supporting the forward looking assessment of own risks that will allow national competent authorities to review and evaluate the quality of the process.**

Guideline 2 – Progress report to EIOPA

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.

Guideline 3 – Applicability of the threshold for the forward looking assessment of own risks

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that all undertakings and groups falling under Solvency II Directive perform an assessment of their overall solvency needs, starting in 2014.

National competent authorities should require that undertakings representing at least 80% of the market share as defined in Guideline 5 to 7 in the “Guidelines on submission of information to national competent authorities” perform an assessment of whether the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements on the Solvency

II technical provisions starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital requirements and on the calculation of technical provisions will be provided.

National competent authorities should require that groups submitting annual quantitative information as defined in Guideline 9 in the “Guidelines on submission of information to national competent authorities” perform an assessment of whether the group would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements on the Solvency II technical provisions starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital requirements and on the calculation of technical provisions will be provided.

National competent authorities should allow that undertakings and groups which are in the pre-application process for an internal model make use of this model for the purpose of the assessments on regulatory capital requirements , provided that the undertakings and groups concerned also perform the assessment for preparing for the eventuality that the application to use the internal model under Solvency II would be rejected by the national competent authority.

Where an undertaking which is not in the pre-application process for an internal model falls within the threshold referred to in the paragraph 1.26 and a group falls within the threshold referred to in paragraph 1.27., for the calculation of the Solvency II regulatory capital requirements national competent authorities should require the undertaking or the group to perform an assessment of the significance of the deviation of its risk profile from the assumptions underlying the Solvency II Solvency Capital Requirement calculation, starting in 2015. For that technical specifications on the calculation of the Solvency II regulatory capital requirements and on the calculation of technical provisions will be provided.

Section II: General considerations

- 5.1. Article 45 of Solvency II requires the undertaking to perform a regular forward looking assessment of the undertaking’s own risks as part of the risk-management system. The main purpose of the forward looking assessment of the undertaking’s own risks is to ensure that the undertaking engages in the process of assessing all the risks inherent to its business and determines the corresponding capital needs. To achieve this, an undertaking needs adequate and robust processes to assess, monitor and measure its risks and overall solvency needs, and also to ensure that the output from the assessment forms an important part of

the decision making processes of the undertaking. Conducting an assessment of the overall solvency needs properly involves input from across the whole undertaking. The forward looking assessment of the undertaking's own risks is not complied with by producing only a report or by filling templates.

- 5.2. The design of the overall solvency needs assessment reflects the way the undertaking proposes to manage the risks that it faces through capital needs or other risk mitigation techniques. This takes into consideration the risk profile, the approved risk tolerance limits and the business strategy. The determination of the overall solvency needs is expected to contribute to assessments of whether to retain or transfer risks, of how best to optimise the undertaking's capital management and of how to establish the appropriate premium levels. It is also expected to provide input into other strategic decisions.
- 5.3. An undertaking cannot simply rely on the regulatory capital requirements to be adequate for its business and risk profile. An essential part of risk management is the undertaking performing its own assessment of the own funds (including amount, quality, etc.) it needs to hold in view of the particular risk exposure and business objectives. Since the risks the undertaking is exposed to translate into solvency needs, looking at risk and capital management separately is not appropriate.
- 5.4. As the overall solvency needs assessment is the undertaking's own analysis, undertakings have flexibility in this assessment. However, supervisory expectations are more specific with regard to the continuous compliance with the regulatory capital and technical provisions and the assessment of any deviation between the undertaking's risk profile and the assumptions underlying the SCR calculation. Accordingly, an undertaking during the preparatory period has to take into account the technical specifications for the calculation of the regulatory capital requirements and the technical provisions to be provided.
- 5.5. During the preparatory period until the full implementation of Solvency II, the forward looking assessment of the undertaking's own risks will also allow the undertaking to determine the adequacy of its regulatory capital position. The undertaking is required to ensure that it can meet the regulatory capital requirements in the form of the minimum capital requirement (MCR) and the solvency capital requirement (SCR) once Solvency II quantitative requirements are to be applied. During the preparatory period the undertaking has to assess whether it will be able to meet the future capital requirements through the forward looking assessment of the undertaking's own risks.

- 5.6. The undertaking is also expected to consider whether the SCR, calculated with the standard formula or an internal model, would be appropriate according to the undertaking's risk profile.
- 5.7. The forward looking assessment of the undertaking's own risks may call for the performance of tasks that the undertaking has already performed in a different context in which case no duplication of tasks is required but the result reached is to be taken into account in the forward looking assessment of the undertaking's own risks.

Guideline 4 – Proportionality

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking develops for the forward looking assessment of own risks its own processes with appropriate and adequate techniques, tailored to fit into its organisational structure and risk-management system and taking into consideration the nature, scale and complexity of the risks inherent to the business.

- 5.8. An undertaking's assessment of its overall solvency needs does not necessarily call for the use of a complex approach. The methods employed may range from simple stress tests to more or less sophisticated economic capital models. Where such economic capital models are being used, they do not need to meet the requirements for the use of internal models for the calculation of the SCR in accordance with Articles 112 to 126.
- 5.9. Proportionality is to be reflected not only in the level of complexity of the methods used but also in the frequency of the performance of the forward looking assessment of the undertaking's own risks assessment by the undertaking and in the level of granularity of the different analyses to be included in the forward looking assessment of the undertaking's own risks.

Guideline 5 – Role of the administrative, management or supervisory body: top-down approach

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the administrative, management or supervisory body of the undertaking takes an active part in the forward looking assessment of own risks, including steering, how the assessment is to be performed and challenging the

results.

- 5.10. The forward looking assessment of the undertaking's own risks is a very important tool for the AMSB of the undertaking providing it with a comprehensive picture of the risks the undertaking is exposed to or could face in the future. It has to enable the AMSB to understand these risks and how they translate into capital needs or alternatively require risk mitigation techniques.
- 5.11. The AMSB challenges the identification and assessment of risks, and any factors to be taken into account. It also gives instructions on management actions to be taken if certain risks were to materialise.
- 5.12. As part of the forward looking assessment of the undertaking's own risks the AMSB challenges the assumptions behind the calculation of the SCR to ensure they are appropriate in view of the assessment of the undertaking's risks.
- 5.13. Taking into account the insights gained from the forward looking assessment of the undertaking's own risks, the AMSB approves the long and short term capital planning, whilst considering the business and risk strategies it has decided upon for the undertaking. This plan includes alternatives to ensure that capital requirements can be met even under unexpectedly adverse circumstances.

Guideline 6 – Documentation

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking has at least the following documentation on the forward looking assessment of own risks:

- a) The policy for the forward looking assessment of own risks;**
- b) record of each forward looking assessment of own risks;**
- c) an internal report on each forward looking assessment of own risks; and**
- d) a supervisory report of the forward looking assessment of own risks.**

- 5.14. Documenting information does not necessarily require that new or fully separate reports or documents are drafted; it can be sufficient to refer to existing documents where these contain the relevant information and just

record additional information if and insofar as this is necessary to present the full picture.

Guideline 7 – Policy for the forward looking assessment of own risks (based on the ORSA principles)

In accordance with Articles 41 and 45 of Solvency II Directive, national competent authorities should ensure that the administrative, management or supervisory body of the undertaking approves the policy for the forward looking assessment of own risks. This policy should include at least:

- a) a description of the processes and procedures in place to conduct the forward looking assessment of own risks;**
- b) a consideration of the link between the risk profile, the approved risk tolerance limits and the overall solvency needs; and**
- c) information on:**
 - (i) how and how often stress tests, sensitivity analyses, reverse stress tests or other relevant analyses are to be performed;**
 - (ii) data quality standards; and**
 - (iii) the frequency of the assessment itself and the justification of its adequacy particularly taking into account the undertaking's risk profile and the volatility of its overall solvency needs relative to its capital position; and**
 - (iv) the timing for the performance of the forward looking assessment of own risks and the circumstances which would trigger the need for a forward looking assessment of own risks outside of the regular time-scales.**

5.15. The AMSB ensures that the forward looking assessment of the undertaking's own risks is appropriately designed and implemented.

5.16. According to Article 41(3) undertakings are required to have a written policy on risk management. As risk management includes the forward looking assessment of the undertaking's own risks, undertakings have to develop a policy for forward looking assessment of the undertaking's own risks.

Guideline 8 – Record of each forward looking assessment of own risks

(based on the ORSA principles)

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking appropriately evidences and internally documents each forward looking assessment of own risks and its outcome.

- 5.17. The undertaking records the performance of each forward looking assessment of the undertaking's own risks and the assessment of any deviations in its risk profile from the assumptions underlying the SCR calculation to a level of detail that enables a third party to evaluate the assessments.
- 5.18. The record of each forward looking assessment of the undertaking's own risks is therefore expected to include:
- a) The individual risk analysis, including a description and explanation of the risks considered;
 - b) The links between the risk assessment and the capital allocation process and an explanation of how the approved risk tolerance limits were taken into account;
 - c) An explanation of how risks not covered with own funds are managed;
 - d) A technical specification of the approach used for the forward looking assessment of the undertaking's own risks assessment, including a detailed description of the key structure, together with a list and justification of the assumptions underlying the approach used, the process used for setting dependencies, if any, and the rationale for the confidence level chosen, if any, a description of stress tests and scenario analyses employed and the way their results were taken into account, and an explanation of how parameter and data uncertainty were assessed;
 - e) An amount or range of values for the overall solvency needs over a one-year-period, as well as for a longer period and a description of how the undertaking expects to address the needs;
 - f) Action plans arising from the assessment and the rationales for them. This requires the documentation to cover any strategies for raising additional own funds where necessary and the proposed timing for actions to improve the undertaking's financial condition;

- g) Details on the conclusions and the rationale for them from the assessment of the continuous compliance with the requirements of regulatory capital and technical provisions;
- h) For undertakings that would use an internal model to calculate the SCR, a description of the changes made to the internal model under pre-application process during this process if any;
- i) The identification and explanation of the differences between the undertaking's risk profile and the assumptions underlying the calculation of the SCR. Where the deviations are considered to be significant resulting in either an under or an overestimation of the SCR, the internal documentation addresses how the undertaking has reacted or will react;
- j) A description of what internal and external factors were taken into consideration in the forward-looking perspective;
- k) Details of any planned relevant management actions, including an explanation and a justification for these actions, and their impact on the assessment; and
- l) A record of the challenge process performed by the AMSB.

Guideline 9 – Internal report on the forward looking assessment of own risks (based on the ORSA principles)

In accordance with Article 41, 44 and 45 of Solvency II Directive, national competent authorities should ensure that the undertaking communicates to all relevant staff at least the results and conclusions regarding the forward looking assessment of own risks, once the process and the results have been approved by the AMSB.

- 5.19. The information communicated to the AMSB has to be sufficiently detailed to enable it to use it in its strategic decision-making process and the information communicated to relevant staff has to be sufficiently detailed to enable those staff to take any necessary follow-up actions.
- 5.20. The internal report developed by the undertaking could be the basis of the supervisory report of forward looking assessment of the undertaking's own risks. If the undertaking considers that the internal report has an appropriate level of detail also for supervisory purposes then the same report may be submitted to the national supervisory authority.

Guideline 10 – Supervisory Report of the forward looking assessment of own risks (based on the ORSA principles)

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking submits the supervisory report of the forward looking assessment of own risks within 2 weeks of the AMSB having reviewed and approved the assessments. The supervisory report should present at least the following:

- a) the qualitative and quantitative results of the forward looking assessment and the conclusions drawn by the undertaking from those results;**
- b) the methods and main assumptions used; and**
- c) where applicable according to the thresholds introduced, a comparison between the overall solvency needs, the regulatory capital requirements and the undertaking's own funds.**

- 5.21. The undertaking is expected to submit the outcome of the forward looking assessment of the undertaking's own risks to the supervisory authority within two weeks after the AMSB has reviewed and approved the outcome of the forward looking assessment of the undertaking's own risks.
- 5.22. The assessment of the overall solvency needs includes the quantification for different risk categories or, where appropriate, risks, as well as a quantification of the overall solvency needs for a one-year and a medium term horizon. For the assessment of the continuous compliance the quantification for example covers expected future SCR, MCR and own funds levels. And for the assessment of the significance of the deviation of the risk profile the report needs to comprise the quantification of any significant deviation.
- 5.23. Qualitative information on the forward looking assessment of the undertaking's own risks includes for instance the description of the risks the undertaking is or could be exposed to, explanations why certain risks were considered to be material or not, management actions or risk mitigation taken into account, proposed risk management measures for risks not to be covered by capital, weaknesses or problems identified, scenarios that the undertaking is sensitive to, the result of internal stress tests and the strategic decisions considered through the forward looking assessment of the undertaking's own risks.

- 5.24. Conclusions of the undertaking about the forward looking assessment of the undertaking's own risks include what the undertaking plans to do on account of the findings during the forward looking assessment of the undertaking's own risks and the timelines for proposed actions. It may also involve explaining why the undertaking concludes that no actions are required if it is not unreasonable to expect that something may have to be done about certain findings.
- 5.25. When setting out its main assumptions the undertaking not only needs to address internal and external factors it has taken into account as affecting its overall solvency needs and regulatory capital requirements and how and why it did so but also to explain for example why it deems the deviation of its profile from the assumptions underlying the SCR calculation to be non-significant
- 5.26. For the comparison of the undertaking's own funds with its overall solvency needs the undertaking may consider other elements than those accepted as available own funds according to Solvency II principles as own funds. In this case an explanation why the undertaking deems this to be justified is expected to be included in the report.

Section III: Specific features regarding the performance of the forward looking assessment of the undertaking's own risks

Guideline 11 – Valuation and recognition of the overall solvency needs

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking, if it uses recognition and valuation bases that are different from the Solvency II bases in the assessment of its overall solvency needs, explains how the use of such different recognition and valuation bases ensures better consideration of the specific risk profile, approved risk tolerance limits and business strategy of the undertaking, while complying with the requirement for a sound and prudent management of the business.

National competent authorities should ensure that the undertaking quantitatively estimates on best effort basis the impact on the overall solvency needs assessment of the different recognition and valuation bases in those cases where recognition and valuation bases that are different from the Solvency II bases have been used in the assessment of its overall solvency needs starting in 2015 under the condition that the technical specifications have been provided by EIOPA.

- 5.27. The quantitative estimate of the impact includes all balance sheet effects. The diversification effects between risks (correlations) are also considered in this assessment. In this the undertaking is not bound to

use the correlations included in the standard formula, but may employ others considered to be more suitable to its specific business and its risk profile.

Guideline 12 – Assessment of the overall solvency needs

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking assesses its overall solvency needs and then expresses the overall solvency needs in quantitative terms and complements the quantification by a qualitative description of the material risks.

Where appropriate, national competent authorities should ensure that the undertaking subjects the identified material risks to a sufficiently wide range of stress test or scenario analyses in order to provide an adequate basis for the assessment of the overall solvency needs.

- 5.28. In its assessment of the overall solvency needs an undertaking could decide not to use capital as a buffer for all its quantifiable risks but to manage and mitigate those risks by other means. The assessment covers all material risks, including non-quantifiable risks like reputational risk or strategic risk, amongst others. The assessment could take several forms. It could be pure quantification based on quantitative methodologies or an estimated value or range of values which are based on particular assumptions or scenarios, or it could be more or less judgemental. It is, however, required that the undertaking demonstrates the rationale for the assessment.
- 5.29. When an insurance undertaking belongs to a group, its forward looking assessment of the undertaking's own risks has to consider all group risks that may impact materially the individual entity.
- 5.30. As the risk profile is influenced by the risk mitigation techniques used by the undertaking, the assessment of the impact and the effectiveness of reinsurance and other risk mitigation techniques plays a role in the forward looking assessment of the undertaking's own risks. Where there is no effective risk transfer this has to be taken into account in the assessment of the overall solvency needs.
- 5.31. After identifying all the risks it is exposed to, the undertaking takes a decision on whether they will be covered with capital or managed with risk mitigation tools or both.
- 5.32. If the risks are to be covered by capital, there is a need to estimate the risks and identify the level of materiality. For material risks, the

undertaking has to determine the capital required and explain how they will be managed.

- 5.33. If the risks are managed with risk mitigation techniques, the undertaking explains which risks are going to be managed by which technique and the underlying reasons.
- 5.34. The assessment needs to cover whether the undertaking currently has sufficient financial resources and realistic plans for how to raise additional capital if and when required, for example on account of the business strategy or business plan. In assessing the sufficiency of its financial resources the undertaking has to take into account the quality and volatility of its own funds with particular regard to their loss-absorbing capacity under different scenarios.
- 5.35. Conducting an assessment of the overall solvency needs properly involves input from across the whole undertaking. One difference from the SCR calculation is that for the overall solvency needs assessment the undertaking considers all material risks, including long term risks, it could face within the timeframe in the medium term or ,where relevant, in the long term. Although the SCR only takes quantifiable risks into account, the undertaking is expected to identify and assess the extent to which non-quantifiable risks are part of its risk profile and to ensure that they are properly managed.
- 5.36. The assessment of the overall solvency needs is expected to at least:
 - a) Reflect the material risks arising from all assets and liabilities, including intra-group and off-balance sheet arrangements;
 - b) Reflect the undertaking's management practices, systems and controls including the use of risk mitigation techniques;
 - c) Assess the quality of processes and inputs, in particular the adequacy of the undertaking's system of governance, taking into consideration risks that may arise from inadequacies or deficiencies;
 - d) Connect business planning to solvency needs;
 - e) Include explicit identification of possible future scenarios;
 - f) Address potential external stress; and
 - g) Use a valuation basis that is consistent throughout the overall solvency needs assessment.
- 5.37. When assessing the overall solvency needs, an undertaking also takes into account management actions that may be adopted in adverse

circumstances. When relying on such prospective management actions, an undertaking assesses the implications of taking these actions, including their financial effect, and takes into consideration any preconditions that might affect the efficacy of the management actions as risk mitigators. The assessment also addresses how any management actions would be enacted in times of financial stress.

- 5.38. As internal model users would be required to develop and carry out, on a regular basis, their own stress tests and scenario analyses as part of the complying with the validation standards set out in Article 124 of Solvency II, they may need to develop further stresses and scenarios for the forward looking assessment of the undertaking's own risks. The process for setting the stress and scenarios should be consistent with internal model requirements.
- 5.39. Where the undertaking uses the standard formula as a baseline for its assessment of its overall solvency needs, it is expected to demonstrate that this is appropriate to the risks inherent in its business and reflects its risk profile.
- 5.40. In the case of internal model users, the explanations and justifications that would be required for the use of an internal model can be used, if appropriate in the context of the forward looking assessment of the undertaking's own risks. Nevertheless specific explanations need to cover the use of a different recognition or valuation basis in the forward looking assessment of the undertaking's own risks to that used in the internal model to calculate the SCR.

Guideline 13 – Forward-looking perspective of the overall solvency needs

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking's assessment of the overall solvency needs is forward-looking, including a medium term or long term perspective as appropriate.

- 5.41. The analysis of the undertaking's ability to continue as a going concern and the financial resources needed to do so over a time horizon of more than one year is an important part of the forward looking assessment of the undertaking's own risks.
- 5.42. Unless an undertaking is in a winding-up situation, it has to consider how it can ensure that it can continue as a going concern. In order to do this successfully, it does not only have to assess its current risks but also the risks it will or could face in the long term. That means that, depending on

the complexity of the undertaking's business, it may be appropriate to perform long term projections of the business, which are in any case a key part of any undertaking's financial planning. This might include business plans and projections of the economic balance sheet as well as variation analysis to reconcile these two items. These projections are required to feed into the forward looking assessment of the undertaking's own risks in order to enable the undertaking to form an opinion on its overall solvency needs and own funds in a forward looking perspective.

- 5.43. The undertaking needs to project its capital needs at least over its business planning period, taking into account medium and long term risk, as appropriate. This projection is to be made taking into consideration any likely changes to the risk profile and business strategy over the projection period and the sensitivity of the assumptions used.
- 5.44. The length of the business planning period may differ between undertakings. However, if the undertaking generates a new business plan or revises an existing business plan, these changes need to be reflected in the forward looking assessment of the undertaking's own risks taking into account the new risk profile, the business volume and the business mix that is expected. In order to provide a proper basis for decision-making and to identify material risks and the consequences for the overall solvency needs by changes to the business plan, a range of possible scenarios have to be tested.
- 5.45. An undertaking also identifies and takes into account external factors that could have an adverse impact on its overall solvency needs or on its own funds. Such external factors could include changes in the economic conditions, the legal framework, the fiscal environment, the insurance market, technical developments that have an impact on underwriting risk, or any other probable relevant event. The undertaking will need to consider as part of its capital management plans and capital projections how it might respond to unexpected changes in external factors.

Guideline 14 – Regulatory capital requirements

In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that as part of this assessment the undertaking analyses whether the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and includes at least:

- a) the potential future material changes in the risk profile;**

b) the quantity and quality of its own funds over the whole of its business planning period; and

c) the composition of own funds across tiers and how this composition may change as a result of redemption, repayment and maturity dates during its business planning period.

- 5.46. For the assessment of the compliance on a continuous basis with the regulatory capital and technical provisions requirements, the recognition and valuation bases have to be in line with the relevant principles provided by Solvency II.
- 5.47. Changes in an undertaking's risk profile may affect the future MCR and SCR calculations and this needs to be taken into consideration in the capital management process.
- 5.48. The assessment also needs to consider the changes to the own funds position that might occur in stressed situations. The undertaking is expected to carry out stress tests and scenario analyses to assess the resilience of the business.
- 5.49. Capital planning includes projections of capital requirements and own funds over the planning period (and may include the need to raise new own funds). It is up to each undertaking to decide for itself the reasonable methods, assumptions, parameters, dependencies or levels of confidence to be used in the projections.
- 5.50. As part of the business and capital planning processes, an undertaking will need to regularly carry out stress tests, reverse stress-tests, as well as scenario analyses to feed into its forward looking assessment of the undertaking's own risks. The stress testing scope and frequency has to be proportionate.
- 5.51. When considering the quantity, quality and composition of its own funds, the undertaking has to consider the following: the mix between basic own funds and ancillary own funds, and also between tiers, the relative quality of the own funds and their loss absorbing capacity.
- 5.52. When considering future own fund requirements the undertaking has to consider:
- a) Capital management including at least issuance, redemption or repayment of capital instruments, dividends and other distributions of income or capital, and calls on ancillary own fund items. This has to

include both projected changes and contingency plans in the result of a stressed situation;

- b) The interaction between the capital management and its risk profile and its expected and stressed evolution;
- c) If required, its ability to raise own funds of an appropriate quality and in an appropriate timescale. This has to have regard to: its access to capital markets; the state of the markets; its dependence on a particular investor base, investors or other members of its group; and the impact of other undertakings seeking to raise own funds at the same time; and
- d) How the average duration of own fund items (contractual, maturity or call dates), relates to the average duration of its insurance liabilities and future own funds needs.

5.53. The undertaking also assesses and identifies relevant compensating measures and offsetting actions it could realistically take to restore or improve capital adequacy or its cash flow position after some future stress events.

Guideline 15 – Technical provisions

In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that the undertakings ensures the actuarial function of the undertaking to:

- a) provide input as to whether the undertaking would comply continuously with the requirements regarding the calculation of technical provisions; and**
- b) identify potential risks arising from the uncertainties connected to this calculation.**

5.54. Assessing whether the requirements relating to technical provisions are being complied with continuously requires processes and procedures relating to a regular review of the calculation of the technical provisions to be in place.

5.55. The input regarding the compliance with requirements and the risks arising from the calculation of technical provisions has to be in line with the information contained in the annual report of the actuarial function.

Guideline 16 – Deviations from assumptions underlying the SCR calculation

In accordance with Article 45 of Solvency II Directive and in accordance with Guideline 3 on the applicability of the threshold for the forward looking assessment of own risks, national competent authorities should ensure that the undertaking assesses whether its risk profile deviates from the assumptions underlying the Solvency II Solvency Capital Requirement calculation and whether these deviations are significant. The undertaking may as a first step perform a qualitative analysis and if that indicates that the deviation is not significant, a quantitative assessment is not required.

- 5.56. The assessment of the significance with which the risk profile of the undertaking deviates from the assumptions underlying the SCR calculation ensures that the undertaking understands the assumptions underlying its SCR calculation and considers whether those assumptions are appropriate. To do this, the undertaking will have to compare those assumptions with its own understanding of its risk profile. This process needs to prevent an undertaking from simply relying upon regulatory capital requirements as being adequate for its business.
- 5.57. In order to help standard formula users in the assessment, information on the assumptions on which the SCR calculation is based will be made available to undertakings.
- 5.58. The undertaking has to assess the significance of deviations of its specific risk profile from the relevant assumptions underlying the (sub) modules of the SCR calculation the correlations between the (sub) modules and the building blocks of the (sub) modules.
- 5.59. Due consideration needs to be given to the following differences between the undertaking's risk profile and the assumptions underlying the SCR calculation: differences due to risks that are not considered in the standard formula and differences due to risks that are either under or overestimated by the standard formula compared to the risk profile. The assessment process is expected to include:
- a) An analysis of the risk profile and an assessment of the reasons why the standard formula is appropriate, including a ranking of risks;
 - b) An analysis of the sensitivity of the standard formula to changes in the risk profile, including the influence of reinsurance arrangements, diversification effects and the effects of other risk mitigation techniques;

- c) An assessment of the sensitivities of the SCR to the main parameters, including undertaking-specific parameters;
- d) An elaboration on the appropriateness of the parameters of the standard formula or of undertaking-specific parameters;
- e) An explanation why the nature, scale and complexity of the risks justify any simplifications used; and
- f) An analysis of how the results of the standard formula are used in the decision making process.

5.60. If the outcome of this qualitative and quantitative assessment is that there are significant deviations between the risk profile of the undertaking and the SCR calculation, the undertaking would be expected to consider during the preparatory period how this could be addressed. It could decide to align its risk profile with the standard formula, to apply for undertaking-specific parameters, where this is allowed, or to develop a (partial) internal model. Alternatively, the undertaking could decide to de-risk.

5.61. It is unlikely that the undertaking can determine whether the risk profile deviates significantly from the assumptions underlying the SCR by comparing the amount of the overall solvency needs as identified through the forward looking assessment of the undertaking's own risks with the SCR. Since overall solvency needs and SCR can be calculated on different bases and may include different items, the amounts produced will not be readily comparable. There are a number of reasons that could account for the differences that have nothing to do with deviations of the risk profile, such as:

- a) The undertaking may operate at a different confidence level or risk measure for business purposes compared to the assumptions on which the SCR calculation is based. For instance, it may choose to hold own funds for rating purposes, which represents a higher confidence level than that used to calibrate the SCR.
- b) The undertaking may use a time horizon for its business planning purposes that differs from the time horizon underlying the SCR.
- c) In the forward looking assessment of the undertaking's own risks the undertaking may consider any agreed management actions that could influence the risk profile.

Internal model users

5.62. During the pre-application process the undertaking prepares to ensure that the internal model plays an important role in the forward looking assessment of the undertaking's own risks as set out in Article 120 of Solvency II.

Internal model users – Overall Solvency Needs

5.63. According to Article 120 of Solvency II, as part of the use test, internal models would need to play an important role in the forward looking assessment of the undertaking's own risks. This does not necessarily mean that the assessment of the overall solvency needs would be accomplished solely by running the internal model. In this context, the forward looking assessment of the undertaking's own risks includes the assessment of:

- a) the impact of the excluded material risks or major lines of business would have on the solvency position in the case of partial internal model;
- b) the interrelationship between risks which are in and outside the scope of the model; and
- c) the identification of risks other than those covered by the internal model, which may trigger a change to the internal model.

Guideline 17 – Link to the strategic management process and decision-making framework

In accordance with Article 45 of Solvency II Directive, national competent authorities should ensure that the undertaking takes into account the results of the forward looking assessment of own risks and the insights gained during the process of this assessment in at least:

- a) its capital management;**
- b) its business planning; and**
- c) its product development and design.**

5.64. In deciding on the business strategy, the undertaking has to take into account the output from the forward looking assessment of the undertaking's own risks.

5.65. As an integral part of the business strategy, an undertaking needs to have in place its own strategies for managing its overall solvency needs and regulatory capital requirements and integrating this with the

management of all material risks to which it is exposed. Hence the forward looking assessment of the undertaking's own risks feeds into the management of the business, in particular into the strategic decisions, operational and management processes.

- 5.66. The forward looking assessment of the undertaking's own risks is required to reflect the business strategy. Hence, when performing the forward looking assessment of the undertaking's own risks the undertaking takes into account the business strategy and any strategic decisions influencing the risk situation and regulatory capital requirement as well as overall solvency needs. On the other hand, the AMSB needs to be aware of the implications that strategic decisions have on the risk profile and regulatory capital requirements and overall solvency needs of the undertaking and to consider whether these effects are desirable, affordable and feasible given the quantity and quality of its own funds. Any strategic or other major decisions that may materially affect the risk or own funds' position of the undertaking need to be considered through the forward looking assessment of the undertaking's own risks before such a decision is taken. This does not necessarily imply a full performance of the forward looking assessment of the undertaking's own risks: the undertaking considers how the output of the last assessment of the overall solvency needs would change if certain decisions were taken and how these decisions would affect the regulatory capital requirements.
- 5.67. Where the undertaking is relying on management processes, in particular systems and controls, in order to mitigate risks, it considers the effectiveness of those systems and controls in a stress situation.

Guideline 18 – Frequency

In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the undertaking performs the forward looking assessment of own risks at least annually.

- 5.68. The forward looking assessment of the undertaking's own risks has to be performed on a regular basis and in any case immediately after any significant change in the risk profile of the undertaking.
- 5.69. The undertaking decides when to perform the regular forward looking assessment of the undertaking's own risks which, as a rule, needs to use the same reference date as the SCR calculation but different reference dates could be acceptable if there has been no material change in the risk profile between them.

- 5.70. The forward looking assessment of the undertaking's own risks performed after any significant change of the risk profile is called a non-regular forward looking assessment of the undertaking's own risks. In this regard undertakings are expected to use their experience from stress tests and scenario analyses to determine whether changes in external factors could impact the undertaking's risk profile significantly.
- 5.71. Such changes may follow from internal decisions and external factors. Examples are: the start-up of new lines of business; major amendments to approved risk tolerance limits or reinsurance arrangements, internal model changes, portfolio transfers or major changes to the mix of assets.

Section IV: Specificities of the group forward looking assessment of the undertaking's own risks (based on the ORSA principles)

Guideline 19 – Scope of group forward looking assessment of own risks (based on the ORSA principles)

In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity designs the group forward looking assessment of own risks to reflect the nature of the group structure and its risk profile. All of the entities that fall within the scope of group supervision should be included within the scope of the group forward looking assessment of own risks. This should include insurance, reinsurance, non-insurance and non-reinsurance undertakings, and both regulated and non-regulated entities, situated in the EEA and outside the EEA.

- 5.72. The group forward looking assessment of the undertaking's own risks adequately captures all specificities of the group, including at least:
- a) risks specific to the group for example stemming from non-regulated entities, interdependencies within the group and their impact on the group's risk profile;
 - b) risks that might not be taken into account at individual level, but that have to be taken into consideration at group level for example contagion risks;
 - c) any differences between undertakings of the group, such as business strategy, business planning period and risk profile;
 - d) national specificities, their effects and how they are reflected at the group level.

- 5.73. The participating insurance or reinsurance undertaking or insurance holding company responsible for the group forward looking assessment of the undertaking's own risks needs to ensure that all necessary information to carry out the group forward looking assessment of the undertaking's own risks and that the results are reliable.

(Re)insurance undertakings

- 5.74. The reference to (re)insurance undertakings covers all entities taking-up insurance or reinsurance activities including captive (re)insurance undertakings.

Third-country entities

- 5.75. Although third-country undertakings are not required to produce a solo forward looking assessment of the undertaking's own risks, they have to be included in the group forward looking assessment of the undertaking's own risks if they fall within the scope of group supervision.
- 5.76. Groups need to take account of any restrictions or challenges to the assessment at group level that may arise from third-country undertakings. For example, this might include any impediments to accessing information and restrictions on the timeliness of information to be provided by the undertakings.

Regulated non-(re)insurance undertakings

- 5.77. The group forward looking assessment of the undertaking's own risks assesses all material risks arising from regulated non-insurance or reinsurance entities within the group, since these entities contribute to the group solvency in proportion to the share held by the participating undertaking in accordance with Article 221.

Non-regulated entities

- 5.78. While non-regulated entities are not subject to solo supervision and are not expected to perform a forward looking assessment of the undertaking's own risks at the individual level, they have to be included in the scope of group forward looking assessment of the undertaking's own risks, if they fall within the scope of group supervision.
- 5.79. The nature of the assessment with respect to non-regulated entities will depend on the nature, size and complexity of each non-regulated entity and its role within the group. Some non-regulated entities may play a very important role in setting the strategy and hence in defining the risk profile at the group level that is implemented throughout the group. On the other hand, non-regulated entities, such as insurance holding

companies, may be just instruments that are used for a particular for example to acquire holdings in subsidiaries as set out in Article 212(1)(f) of Solvency II and have no influence in setting the business strategy. The group forward looking assessment of the undertaking's own risks will have to be sufficiently dynamic to capture the different nature of the material risks from all non-regulated entities within the scope of the group.

Guideline 20 – Reporting to the supervisory authorities

In accordance with Articles 45 and 246 of Solvency II Directive and in case the responsible entity applies for the submission of a single forward looking assessment of own risks' document:

- a) The group supervisor should form a view whether to allow the group to perform a single forward looking assessment of own risks document, if there is no other decision process in force in the college, and if no member that would otherwise receive an individual forward looking assessment of own risks document disagrees; and**
- b) where one or more of the subsidiaries has its head office in a Member State whose official languages are different from the languages in which the single forward looking assessment of own risks document is reported, the supervisory authority concerned should consult with the group supervisor, the college of supervisors and the group itself before requiring the undertaking to translate the part of the forward looking assessment of own risks document that concerns the subsidiary into an official language of the Member State in which the subsidiary has its head office.**

5.80. The following table summarises the reporting requirements linked to the group forward looking assessment of the undertaking's own risks:

		Article 254(2), Article 35(2) (a)(i) and draft Article 294 SRS1	Article 254(2) and Article 35(2) (a)(ii)
Group forward looking assessment of	Participating undertaking	Group forward looking assessment of the undertaking's own	Group forward looking assessment of the

<p>the undertaking's own risks</p> <p>(not including the assessment at individual level of the subsidiaries)</p>		<p>risks supervisory report reported to the group supervisor</p>	<p>undertaking's own risks supervisory report reported to the group supervisor whenever a forward looking assessment of the undertaking's own risks is performed</p>
<p>Individual forward looking assessment of the undertaking's own risks (at subsidiaries' individual level)</p>	<p>Subsidiary</p>	<p>Solo supervisory report includes cross references to the group forward looking assessment of the undertaking's own risks (supervisory report)</p>	<p>Solo supervisory report includes cross references to the group forward looking assessment of the undertaking's own risks (supervisory report).</p>
<p>Single forward looking assessment of the undertaking's own risks document covering all the assessments (article 246(4) 3rd subparagraph option)</p>	<p>Participating undertaking</p>	<p>Single supervisory report of forward looking assessment of the undertaking's own risks submitted to all supervisory authorities concerned whenever a regular forward looking assessment of the undertaking's own risks is performed</p>	<p>Single supervisory report of forward looking assessment of the undertaking's own risks submitted to all supervisory authorities concerned whenever a non-regular forward looking assessment of the undertaking's own risks is performed</p>

5.81. It is not necessary that all individual undertakings within the group are in the scope of the single forward looking assessment of the undertaking's

own risks document. However, if the group applies for a single forward looking assessment of the undertaking's own risks document all relevant members in the college given the scope of the application should be involved in the decision as set out in the guideline.

5.82. After a demand to perform a single forward looking assessment of the undertaking's own risks document from the group, if there is no other decision process in force in the college, and if any member that would otherwise receive an individual forward looking assessment of the undertaking's own risks document disagrees, the group supervisor could authorize the group to perform a single forward looking assessment of the undertaking's own risks document excluding those undertakings above mentioned which should present its own individual forward looking assessment to the respective national supervisor.

5.83. Specifically, the following two situations could arise:

a) The participating undertaking does not apply for a single forward looking assessment of the undertaking's own risks document. In this case, the participating insurance or reinsurance undertaking or the insurance holding company performs the forward looking assessment of the undertaking's own risks at the level of the group and the individual undertaking performs its individual forward looking assessment of the undertaking's own risks.

b) The participating insurance or reinsurance undertaking or the insurance holding company opts for a single document for forward looking assessment of the undertaking's own risks. In this case a single supervisory report has to be provided. Nevertheless, compliance with Article 45 of Solvency II needs to be ensured by the subsidiaries concerned. It is required that the document has to be submitted to all supervisory authorities concerned. This applies to the regular report of the forward looking assessment of the undertaking's own risks and to reports following predefined events.

5.84. The main findings regarding the forward looking assessment of the undertaking's own risks will be discussed in the College of Supervisors.

Guideline 21 – Assessment of the impact of group specific risks on overall solvency needs

In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity in the group forward looking assessment of own risks adequately assesses the impact of all group specific risks and interdependencies within the group as well as, and the impact of these

risks and interdependencies on the overall solvency needs, taking into consideration the specificities of the group and the fact that some risks may be scaled up at the level of the group.

- 5.85. The group forward looking assessment of the undertaking's own risks identifies the impact on the group solvency and related undertakings arising from all material risks that the group is facing. In addition to the risks considered in the SCR calculation, all material risks including group specific risks, and particularly risks that are not quantifiable, have to be taken into consideration.
- 5.86. The group forward looking assessment of the undertaking's own risks describes the interrelationships between the risks of the participating insurance or reinsurance undertaking or the insurance holding company and of the individual undertakings.
- 5.87. The group forward looking assessment of the undertaking's own risks also assesses the materiality of risks that arise at the level of the group and are specific for groups and thus cannot be identified at the individual level. Hence, those group specific risks are not taken into account in the consolidation or aggregation process depending on the calculation method used.
- 5.88. The group specific risks include for example:
- a) contagion risk, for example spill-over effect of risks that have manifested in other parts of the group;
 - b) risks arising from intra-group transactions and risk concentration, notably in relation to:
 - (i) participations;
 - (ii) intra-group reinsurance or internal reinsurance;
 - (iii) intra-group loans;
 - (iv) intra-group outsourcing;
 - c) operational risks arising from the complexity of the group structure; and
 - d) risks arising from the complexity of the group structure.
- 5.89. In addition to the information required in [1.23 Guideline 7] at the group level, the group forward looking assessment of the undertaking's own risks document includes:

- a) a description of the materiality of each related entity at the group level, particularly the contribution of each related entity to the overall group risk profile;
- b) the outcome of the comparison between the group overall solvency needs and the sum of the solo overall solvency needs; and
- c) the assessment of any diversification effects assumed at the group level.

5.90. A group specific component of the group forward looking assessment of the undertaking's own risks is the analysis of diversification effects assumed at group level. This includes the analysis of the reasonableness of the diversification effects assumed at the group level compared to the risk profile of the group and the overall solvency needs of the group.

Guideline 22 – General rule for group forward looking assessment of own risks (based on the ORSA principles)

In accordance with Articles 45 and 246 of Solvency II Directive and in accordance with Guideline 8 on the record of each forward looking assessment of own risks, national competent authorities should ensure that the responsible entity includes in the record of the group forward looking assessment of own risks at least a description on how the following factors were taken into consideration for the assessment of overall solvency needs and the assessment of continuous compliance with regulatory requirements⁵:

- a) The identification of the sources of own funds within the group and if there is a need for additional own funds;**
- b) the assessment of availability, transferability or fungibility of own funds;**
- c) references to any planned transfer of own funds within the group, which would have a material impact on any entity of the group, and its consequences;**
- d) alignment of individual strategies with the ones established at the level of the group; and**
- e) specific risks the group could be exposed to.**

⁵ The assessment of the continuous compliance is expected from those groups within in the threshold.

5.91. From a quantitative perspective, it is expected that the group forward looking assessment of the undertaking's own risks policy outlines different stress tests and scenario analyses.

Guideline 23 – Specific requirements for a single forward looking assessment of own risks' document

In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity, when applying to submit a single forward looking assessment of own risks' document, provides an explanation of how the subsidiaries are covered and how the AMSBs of the subsidiaries are involved in the assessment process and approval of the outcome.

5.92. The single forward looking assessment of the undertaking's own risks document needs to reflect the nature, scale and complexity of the group and the risks within it. The single document focuses on the material parts of the group, but according to Article 246(4) of Solvency II it does not exempt subsidiaries from the obligations relating to the forward looking assessment of the undertaking's own risks at individual level. This means that the single document for forward looking assessment of the undertaking's own risks also has to document the assessments undertaken by insurance and reinsurance subsidiary undertakings at the individual level according to Article 45 of Solvency II.

5.93. If a group plans to submit a single group report for the forward looking assessment of the undertaking's own risks , the AMSB of the entity responsible for fulfilling the group requirements needs to take into consideration the following criteria when assessing the appropriateness of submitting a single group document:

- a) the results of each subsidiary concerned are individually identifiable in the structure foreseen for the single document for forward looking assessment of the undertaking's own risks to enable a proper supervisory review process to be carried out at the individual level by the individual supervisors concerned;
- b) the single report of the forward looking assessment of the undertaking's own risks satisfies the requirements of both the group supervisor as well as the individual supervisors concerned.

Guideline 24 – Internal model users

In accordance with Articles 45 and 246 of Solvency II Directive,

national competent authorities should ensure that, in the case of an internal model pre-application, the responsible entity describes in the group forward looking assessment of own risks which entities within the group do not use the internal model to calculate their SCR and explain why this is the case.

Guideline 25 – Integration of related third-country insurance and re-insurance undertakings

In accordance with Articles 45 and 246 of Solvency II Directive, national competent authorities should ensure that the responsible entity assesses in the assessment of the group overall solvency needs the risks of the business in third countries in a consistent manner as it does for EEA-business with special attention to the assessment of transferability and fungibility of capital.

5.94. The business of these third-country undertakings is assessed taking into account the following:

- a) Both where the solvency regime of a third country has been deemed to be equivalent to the one set by Solvency II and where it has not , the group should carry out the assessment of the overall solvency needs set out in Article 45(1)(a) in the same manner as for EEA undertakings. The integration of the risks of third-country undertakings with the risks of EEA undertakings in the group should guarantee that similar risks are homogeneously assessed from an economic point of view;
- b) Both where the solvency regime of a third country has been deemed to be equivalent to in the one set by Solvency II and where it has not , the group needs to assess particularly the transferability and fungibility of the third-country undertaking own funds. The assessment explicitly identifies the regulation of the third country that may hinder or impede the full fungibility and transferability of the own funds of the subsidiaries of such third country towards any other undertaking of the group;
- c) If a third-country entity is included in the group solvency assessment using local rules and the deduction and aggregation method (in case of equivalence), the assessment of the significance with which the risk profile of the subsidiary of that third country deviates from the assumptions underlying the solvency capital requirement, as set out in Article 45(1)(c) of Solvency II, shall refer to the capital requirements as laid down in the regulations of that third country. This assessment has to be carried out both at a holistic level and at a

more granular level, for which the group assesses the specific deviations of each material element of the calculation of the capital requirement.

- 5.95. The group forward looking assessment of the undertaking's own risks includes a separate and adequate disclosure of any material information concerning third-country undertakings.

6. Appendixes:

Appendix 1: Revised Impact Assessment

Preliminary analysis of the opportunity of issuing preparatory Guidelines

6.1. Before analysing pros and cons of the proposed groups of Guidelines with respect to the baseline, it is necessary, on a logical basis, to justify the choice of issuing Guidelines now or not, but instead doing nothing and waiting till the application of Solvency II.

6.2. For this null option it is possible to identify the following costs and benefits:

Option 0, not issuing preparatory Guidelines:

6.3. With regard to costs on the side of undertakings:

- a) Potential compliance costs may arise in case undertakings start doing investments, purchasing systems and implementing processes, which may need to be changed later due to changes in the negotiations;
- b) In the absence of preparatory Guidelines, practices may evolve differently with respect to other financial market sectors, provoking adjustment costs later (EBA issued Guidelines in 2012 and IAIS have issued "Core Principles on Governance");
- c) The risks, which insurers can be confronted with due to their specifics, can have a huge impact on the overall risks of the insurance undertaking or the whole group. Not taking them into account at an early stage can have a huge cost impact for the insurer at later time when the risks materialise.
- d) Another source of costs could be the final rush to set up systems right before the implementation date of Solvency II. During the rushing errors are also easier to happen.

6.4. With regard to costs on the side of national competent authorities:

- a) Member States have already started updating their legislation regarding the assessment of risks, so if they go further there will be the risk of inconsistent approaches;
- b) In the absence of preparatory Guidelines, supervisory practices may evolve differently with respect to other financial market sectors, provoking adjustment costs later (EBA issued guidelines in 2012 and IAIS have issued "Core Principles on Governance");
- c) Another source of costs could be the necessity to supervise undertaking during the final rush right before the implementation date of Solvency II. During the rushing errors are also easier to happen.

- 6.5. With regard to benefits on the side of undertakings:
- a) The advantage for the industry could be that, in structuring its forward looking assessment of own risks, undertakings have not to take into account any new aspects or further elements encompassed by these Guidelines.
 - b) In fact some member states might not have required fulfilling any forward looking assessment of own risks (based on ORSA principles).
 - c) However, one can argue if that (not having guiding principles) is really an advantage.
- 6.6. With regard to benefits on the side of national competent authorities:
- a) The advantage for national competent authorities could be that they do not have to take into account new aspects or further elements in the process of supervision of the compliance by undertakings.
 - b) However, one can argue if that (not having guiding principles) is really an advantage.
- 6.7. For consumers
- a) No immediate advantage as any costs that may be reflected on policyholders would also happen with normal preparation of Solvency II.
 - b) But a better understanding of its own risk by the insurance undertaking (and therefore a better risk management) is a huge advantage for policy holders and should come as early as possible. This brings a good reason for issuing preparatory guidelines.
- 6.8. The balancing between cons and pros led to the final evaluation that is beneficial for all providing now preparatory Guidelines, to help undertakings and national competent authorities in taking decisions and organising during the preparation phase.

1: Procedural issues and consultation of interested parties

- 6.9. The Impact assessment was prepared in the course of the policy drafting process, with the contribution of experts from different national competent authorities and EIOPA.
- 6.10. Selected stakeholders were pre-consulted in the preparation of the Guidelines.

2: Problem definition

- 6.11. Supervisory requirements with regard to risk management, including where applicable a forward looking assessment of own risks, vary widely

across Member States. These differing requirements impose unnecessary costs on the undertakings and groups and do not provide a level playing field. Therefore new requirements should harmonise and streamline supervisory requirements with regard to a forward looking assessment of own risks, based on ORSA principles.

- 6.12. From past and current experience with Solvency I it became evident that a formal and harmonised framework for a risk management system, focusing on the identification, assessment, managing, monitoring and reporting of risks, including a forward looking assessment of own risks and solvency needs, was needed and that the Administrative, Management or Supervisory Body (AMSB) had to be more involved in the processes of risk management and the forward looking assessment of own risk and solvency needs. Accordingly, the requirement for the undertaking to perform its own risk and solvency assessment should improve risk and capital management and help align regulatory and industry practice. However, due to some uncertainty regarding supervisory expectations on the ORSA there was a general consensus that harmonised Guidelines were needed.
- 6.13. Regulatory measures will tackle this problem by introducing the Solvency II; however there is still no political agreement on Omnibus II. However, further details on a forward looking assessment of own risks, based on ORSA principles are needed to ensure harmonisation and streamline supervisory reporting requirements among Member States.
- 6.14. The "Opinion of EIOPA on interim guidelines regarding Solvency II", issued on the 20 December 2012, stresses the importance of having a consistent and convergent approach with respect to the preparation of Solvency II. In the run-up of the new system, some key areas of Solvency II need to be addressed in order to ensure proper management of undertakings and to ensure that Supervisors have sufficient information at hand. A forward looking assessment of own risks and solvency is among these key areas. These preparatory Guidelines aim at guiding undertakings in their preparation of their risk management system and forward looking assessment of own risks.
- 6.15. Regarding the ORSA, EIOPA has already publicly consulted stakeholders. After having analysed all comments received during pre-consultation in winter 2010/2011, EIOPA conducted an impact assessment based on issues highlighted by stakeholders. In the public consultation conducted from November 2011 until January 2012 stakeholders did not raise any issues that EIOPA had not already addressed following the pre-consultation, but EIOPA revisited the options chosen and decided that they were still valid. This impact assessment represents a revisit of the

previous ones and was amended also in order to illustrate the potential consequences of applying the Guidelines during the preparatory phase.

Proportionality

- 6.16. National competent authorities are expected to ensure that the provisions described in the Opinion are applied 'in a manner which is proportionate to the nature, scale and complexity inherent in the business of the insurance and reinsurance undertaking'. The approach taken aims to ensure that this expectation can be met, and this is reflected in the drafting of the Guidelines in two principal ways:
- a) The Guidelines are principle based and drafted with a view to the outcome or supervisory objective that should be met;
 - b) The level of detail and scope of the Guidelines reflects the fact that the Guidelines are issued in order to prepare for Solvency II and not for its full application.
- 6.17. For the overall approach to proportionality on the preparatory Guidelines under consultation, please see the "Cover note for the Consultation Paper on Guidelines on preparing for Solvency II".
- 6.18. The forward looking assessment based on ORSA principles is an area where there is a significant change between the existing regulatory requirements and those under Solvency II. EIOPA, therefore, believes that it is not appropriate for national competent authorities to expect that all the provisions in these areas are met in the same way by all undertakings during the preparatory phase, and a number of thresholds are proposed in the Guidelines. Regardless of the threshold, EIOPA expects all undertakings to comply with all requirements at Day 1 when Solvency II will become applicable.
- 6.19. It is important to underline that the thresholds have been designed for use during the preparatory phase, as part of taking a proportionate approach. It does not indicate that requirements in these areas will not be in place for all undertakings within the scope of Solvency II Directive once it is fully applied. Consequently, for those undertakings that are not within the thresholds national competent authorities are still expected to ensure that these undertakings begin to prepare and develop appropriate plans.
- 6.20. EIOPA intends for a high proportion of the market to be within the provisions in these areas within each member state. This is in order to ensure that the benefits of consistent preparation set out above are met. EIOPA has also taken into consideration the latest discussions on OMDII with regard to reporting, so as to ensure that the thresholds for the

preparatory phase do not capture a greater share of the market than can be expected when Solvency II is applied.

- 6.21. With regard to the forward looking assessment, it is considered appropriate for all undertakings to conduct an assessment of their own risks and solvency needs, but given the greater complexity associated with the assessment of compliance with regulatory capital requirements, a threshold is proposed for the other two aspects of the assessment. It is also not considered appropriate for national competent authorities to expect undertakings or groups which are in the pre-application process for an internal model to perform the assessment of deviations from the assumptions underlying the standard formula calculation.

Baseline Scenario

- 6.22. When analysing the impact from policies, the methodology foresees that a baseline scenario is applied as the basis for comparing policy options. This helps to identify the incremental impact of each policy option considered. The aim of the baseline scenario is to explain how the current situation would evolve without additional public intervention.
- 6.23. For the analysis of the potential related costs and benefits of the proposed Guideline on the information to supervisors, EIOPA has applied as a baseline the current practice for regulatory reporting including any preparation that has been made for implementing Solvency II.

3: Objective pursued

- 6.24. The main objective of the Guidelines is to actively prepare undertakings and national competent authorities for performing the forward looking assessment of own risks according to Article 45 of Solvency II Directive. The EIOPA Opinion cited above states in item 9 that “undertakings which will be well-governed and which, in particular measure correctly, mitigate and report the risks which they face will be more likely to be prepared for the new regulatory framework and act in the interests of policyholders”.
- 6.25. The aim of the Guidelines on a forward looking assessment of own risks is to provide guidance to undertakings to prepare their own risks assessment in the light of the future entering in force of Solvency II.

4: Policy Options

- 6.26. This Impact Assessment is based on the Issues paper from 2008, and comments received from public consultation (for the comments received from stakeholders responding to this consultation visit EIOPA website:

<https://eiopa.europa.eu/consultations/issues-papers-surveys-and-questionnaires/index.html>). A feedback statement was issued to inform stakeholders of the understanding from EIOPA on the ORSA as well as how EIOPA interpreted the requirements in the draft Solvency II proposal from 2008

(https://eiopa.europa.eu/fileadmin/tx_dam/files/consultations/Issues-Paper-ORSA-%20Feedback.pdf).

- 6.27. The focal point of the issues paper from 2008 was the ORSA on the individual undertaking level but after the pre-consultation it became evident that group issues for the ORSA were a major concern for stakeholders. Later on it also became clear that guidance on the interaction between ORSA and partial/full internal models was an important issue that needed to be addressed.
- 6.28. Based on this, EIOPA developed draft Guidelines on ORSA combining individual and group ORSA and addressing their respective specificities as well as issues regarding the ORSA of insurance undertakings using internal models for the calculation of their SCR.
- 6.29. These draft Guidelines were pre-consulted in winter of 2010/2011 with AMICE, CEA (now Insurance Europe), Group Consultative, CRO Forum, CFO Forum and FEE.
- 6.30. The main results of the pre-consultation were that the consulted stakeholder groups agreed that the focus of the guidance should be on what needs to be achieved by the ORSA rather than on how it is to be performed. Stakeholders also agreed that the ORSA process is an important process within undertakings as a self-assessment tool for the undertaking and should be left with sufficient room for the individual approach within the undertaking. Undertakings should perform the assessment in accordance with the nature, scale and complexity of their business. It is important that the overall process is internally planned, performed and documented before reporting to the supervisor in order to give the supervisor the most current picture of the undertaking's risk profile and overall solvency needs. The emphasis should primarily be on the adequacy of the process for providing the AMSB with insight in the risks of the undertaking as well as improving risk management and better understanding the undertaking's overall solvency needs.
- 6.31. It is acknowledged that undertakings should perform the assessment in accordance with the nature, scale and complexity of the risks inherent to their business. Although consulted stakeholders agreed that the proportionality principle is not on different requirements but on different ways to fulfil the requirements they would also prefer more details on the application of the principle. However, as the proportionality principle

should be reflected in the process and not on what is to be achieved this made it difficult to address the application of the principle in the previous draft of the guidelines. Efforts have been made in this regard and EIOPA believes that the draft published in July 2012 reflects an improvement on the previous draft.

- 6.32. After EIOPA decided to publish preparatory Guidelines on ORSA it was necessary to introduce changes to the Guidelines that accommodate the postponement of the Pillar I issues. The changes are not extensive but the introduction was amended to explain the scope of the Guidelines during the preparatory phase.
- 6.33. As preparation for ORSA is influenced by the fact that not all elements of the ORSA can be performed in a regime that quantitatively is not yet in the Solvency II world, EIOPA discussed whether some requirements should not be applied the same way during the preparatory phase. E.g. EIOPA considered whether reporting of the forward looking assessment of own risks outcome to the supervisory authority was applicable. It was decided that a forward looking assessment of own risks Supervisory Report should be submitted to supervisory authorities and encompass the assessment of overall solvency needs as well as - for the undertakings required to perform these based on the threshold for reporting - the assessments of the continuous compliance with the Solvency II capital requirements/technical provisions requirements and the significance of the deviation from underlying assumptions.
- 6.34. Since the requirement to report on the outcome of the ORSA is prescribed in Article 45 of Solvency II Directive it was not considered optional, not to include a report for the preparatory phase. EIOPA also believes that it is important that supervisory authorities get the information on the forward looking assessment of own risks to improve insight into the risk profile of undertakings and – with regard to the two assessments only to be reported by some undertakings - to be able to monitor the preparation for Solvency II quantitative requirements.
- 6.35. The current IA focus on two different areas. It includes three specific issues for the preparatory phase and three issues applicable not only at preparatory phase but also for future ORSA requirements, following from comments received in previous papers.
- 6.36. In the light of the specific characteristics of these preparatory Guidelines, it was agreed to describe policy options not Guideline by Guideline, neither group by group of Guidelines, but to proceed by areas. In fact, the Guidelines are all strictly linked and interrelated, and analysing them one by one would have ended up in a too fragmented and partial description. It has been judged more appropriate to present directly

policy options EIOPA considered, and then offer motivations about the preferred final choice.

- 6.37. EIOPA has identified six policy options that were considered. The options are based on what EIOPA believes could have the most significant impact on undertakings and the level of protection for policyholders as well as beneficiaries. The focal point is how an underlying problem could evolve, all things being equal, if such options were not decided upon. The policy options described below are not competing with one another, but are proposed as a solution to different aspects of the lack of harmonisation in this area.
- 6.38. During the policy development process the focus was on the main policy questions listed below. On the basis of the following policy questions the ensuing policy options were considered:

Specific areas for the preparatory phase:

1. Whether the performance of an assessment on the continuous compliance with regulatory capital requirements and on the requirements on technical provisions as well as an assessment of the significance of the deviation of an undertaking's risk profile should be required during the preparatory phase.
2. Whether to provide preparatory Guidelines and examples on a forward looking assessment of own risks and solvency supervisory report.
3. Whether to keep the possibility during the preparatory phase to allow groups to produce a single forward looking assessment of own risks document.

General areas for the preparatory phase and future ORSA guidelines:

4. Whether to detail a forward looking assessment of own risks and solvency policy.
5. Whether to require a quantitative assessment for all deviations from the standard formula regardless of their significance.
6. Whether the use of the internal model should be allowed for the assessment of the continuous compliance with regulatory capital needs for undertakings in the pre-application process.

Section 5 in this Annex outlines the pros and cons for each option and the respective analysis. Section 6 concludes which options have been preferred and which have been discarded and why.

5: Analysis of the Policy Options

- 6.39. In this section we aim to describe the different options and the respective expected positive and negative effects from the considered policy options regarding the main groups of stakeholders. The analysis considers the expected effect on insurance and reinsurance undertakings and groups (undertakings), national competent authorities and policyholders.
- 6.40. As a consequence of the choice of describing options not Guideline by Guideline, nor group by group of Guidelines, but by areas, it was agreed to give to this chapter a structure symmetric to the structure of the previous chapter. For each option, arguments are constructed to prepare the selection of the preferred one. In the next chapter, these pro and cons are compared and the final choice.

Specific areas for the preparatory phase:

1. Whether the performance of an assessment on the continuous compliance with regulatory capital requirements and on the requirements on technical provisions as well as an assessment of the significance of the deviation of an undertaking's risk profile should be required during the preparatory phase

- 6.41. While the assessment of the overall solvency needs assessment can be performed irrespective of the regulatory capital regime in place, the assessments of the continuous compliance with regulatory capital requirements and the requirements on technical provisions according to Article 45 of Solvency II Directive are strongly connected with Solvency II quantitative requirements. EIOPA discussed whether these assessments should be applied anyway during the preparatory period as if the Solvency II quantitative requirements already were in force to provide information about the undertakings potential situation in a Solvency II context for the undertakings themselves and for supervisors.
- 6.42. Expecting undertakings to perform the assessments according to Articles 45(1)(b) and (c) of Solvency II Directive already during the preparatory phase as if Solvency II requirements were fully applicable would increase implementation costs for undertakings for the moment as they cannot put off introducing a process covering all elements of the ORSA as set out in Article 45 of Solvency II Directive until the full Solvency II application. They would also have to perform an assessment of compliance with future capital requirements while still having to continue assessing and ensuring that they are able to meet the solvency requirements of the current supervisory regime. As for the assessment of the deviation between the undertaking risk profile and the assumption of the standard formula, the assessment would serve to indicate to undertakings and

national competent authorities whether the Solvency Capital Requirement of an undertaking potentially is not fully captured by using the standard formula and would enable early discussion about how this could be resolved.

- 6.43. The assessment of the continuous compliance on the other hand would render more reliable information about potential difficulties for undertakings to meet the future Solvency II quantitative requirements if it could be based on finalised Solvency II technical specifications but would still be useful even if those were not available: as undertakings have to prepare themselves for the requirements of the new regime they would have to use whatever information is available to determine their future regulatory capital requirements according to the new rules ahead of the introduction of the new capital regime anyway in order to ensure that they are able to meet the new requirements as of day one. Asking that the continuous compliance assessment already be performed therefore requires a preparation for Solvency II quantitative requirements that undertakings would have to accomplish in the run up to the full introduction of Solvency II in any event, however in a more organised and exacting way than might be the case otherwise. But forming an opinion on the preparation for Solvency II capital requirements in this more organised and systematic form could serve to help undertakings with implementing the necessary processes and procedures for the undertaking's own risk and solvency assessment under real Solvency II conditions.
- 6.44. As the outcome of the assessment has to be reported to the supervisory authority, the performance of the assessment would also give the national competent authorities the opportunity to not only assess the preparedness of undertakings for meeting the Solvency II capital requirements but also that they are sufficiently advanced in implementing the operational structures needed to ensure that risk management and capital management are appropriately linked. Performing such an assessment ahead of the Solvency II introduction is an opportunity to discover weaknesses in processes and procedures and take remedial steps when undertakings are still in the dry run phase and deficiencies do not yet call for other supervisory measures than more intensive communication with the undertakings concerned.
- 6.45. EIOPA believes that these assessments are worthwhile during the preparatory period in order to show their own preparedness to undertakings. As no supervisory action is envisaged after conducting the assessments, in which a link to quantitative parts of Solvency II is inherent, EIOPA encourages a clear and transparent dialogue between the undertaking and the national competent authority concerned. This dialogue aims for better preparedness of the undertaking and a better

understanding on the supervisory side about the actual risks the insurance company is facing. Future supervisory measures once full Solvency II will be implemented can be avoided on a less costly base for undertakings and consumers.

2. Whether to provide guidelines and examples on a forward looking assessment of own risks and solvency supervisory report

- 6.46. It is expected that some requirements regarding the level of detail for the ORSA supervisory report will be set out in the Implementing Measures. As the Guidelines need to stand without Implementing Measures it was discussed if the Guidelines should include a forward looking assessment of own risks supervisory report, including whether a detailed description or an actual example of a structure and content should be provided to ensure a common baseline and a minimum level of detail.
- 6.47. How an undertaking wants to document the process, procedures and results is very undertaking specific and EIOPA's concerns are that a structured report could influence the reporting of the forward looking assessment of own risks. Moreover detailed Guidelines could affect the way the undertaking develops these processes and hence its overall forward looking assessment of own risks performance and subsequently the internal documentation and the reporting to the national competent authority. Accordingly, providing a template for a structured report could compromise the undertaking's own assessment. On the other hand, by not providing a structure there might be lack of harmonisation even though Implementing Measures on reporting requirements are expected to give some minimum requirements for the undertakings' ORSA Supervisory Report. This non-harmonised structure makes comparison between undertakings as well as information sharing between supervisors and in colleges more difficult.
- 6.48. EIOPA not providing an example on a structured report gives the undertaking the opportunity to design its own reporting template that fits the nature, scale and complexity of the risks inherent in the business of the undertaking and ensures the involvement of the AMSB to develop a template it believes provides sufficient information internally and to supervisory authorities. Additionally, a non-structured report allows the undertaking to use its internal reporting as a basis for the forward looking assessment of own risks supervisory report, if deemed adequate by the AMSB.
- 6.49. A main focus is to ensure that supervisory authorities get current information on all forward looking assessment of own risks performed by all undertakings.

6.50. Based on this EIOPA believes that it would not be helpful to give an example on a structured report, but rather give the undertaking the opportunity to develop its own reporting template for the forward looking assessment of own risks and solvency supervisory report to ensure the involvement of the AMSB and that it contains what they want reported.

3. Whether to keep the possibility during the preparatory phase to allow groups to produce a single document of the forward looking assessment of own risks

6.51. For the college of supervisors, allowing the group to produce a single document is a decision that has an impact on every supervisor of the entities in the scope of the single document as the information received as a supervisory report of the forward looking assessment of own risks will be different or at least presented differently. Article 246 of Solvency II Directive explains that the decision to allow the group to perform the single document is taken by the group supervisor after consultation of the college. Nevertheless, it is not clearly explained what influence the group supervisor, and the member of the college have on the final decision.

6.52. During the preparatory phase, the group supervision will still be regulated by the Sienna and Helsinki protocols and the functioning of colleges of supervisors will not be the same as when Solvency II will be in force. That means for example that probably in most colleges there will be no process in force to take a decision like allowing the group to produce a single forward looking assessment of own risks. It is nevertheless possible that a coordination arrangement is already in force in the college during the preparatory phase.

6.53. It was discussed if EIOPA should keep the option for groups to make the single forward looking assessment of own risks document and then if EIOPA should provide the college with a Guideline for decision making in the college on that issue in case there was not an existing one.

6.54. EIOPA believes that it should be possible during the preparatory phase, for the group, to have the opportunity to undertake the forward looking assessment of own risks at the level of the group and produce a single document covering all the assessments.

6.55. As it will be in any case a demand from the group, the cost and benefits, in term of scale economies and rationalisation of the process for the forward looking assessment of own risks within the group as well as with the relationship with the supervisory authorities and the college can essentially be positive for the group. The outcome of the analysis will be

especially positive if risks are made more transparent which lay in the structure of the group and / or escalate on group level.

- 6.56. On the other hand, for the national supervisory authorities concerned, the single forward looking assessment of own risks document instead of a dedicated individual forward looking assessment of own risks supervisory report may represent a constraint as the information provided is not specifically designed for each national supervisory authority concerned but for the group as a whole.
- 6.57. This special case can pose additional costs for the undertaking concerned, but these costs do not differ in the preparatory period.
- 6.58. The impact on consumers and policyholders can be valued neutral in general terms. Risks on group level will be more transparent and therefore the protection for policyholders will increase in this respect. On the other hand a single document of the forward looking assessment of own risks has a less granular approach on entity level, which resolves in slightly less policyholder protection.

General areas for the preparatory phase and future ORSA guidelines:

4. Whether to detail a forward looking assessment of own risks and solvency policy

- 6.59. A written policy is required by Solvency II Directive for the risk management system and since the forward looking assessment is a part of the risk management system, a policy on this area needs to be included. It was discussed whether EIOPA should define the minimum requirements of this policy for the forward looking assessment of own risks.
- 6.60. As EIOPA believes that this assessment is one of the most important processes under the Solvency II regime and as it requires the input from various sources within the undertaking and from external sources as well, it is important that an undertaking ensures that all relevant information is taken into account.
- 6.61. The assessment as part of the risk management system is required in Article 41(3) of Solvency II Directive, should be approved by the AMSB and properly implemented by the undertaking to achieve an effective system of governance.
- 6.62. EIOPA is aware that developing a proper policy that contains the right information to ensure a proper performance of the forward looking assessment could be time consuming. But this policy is required to give insight to and oversight of the decision making process and risk

understanding inside the AMSB as well as ensuring the undertaking has a comprehensive picture of all the risks it is exposed to. It also ensures the necessary level of responsibility by the AMSB and a policy will help them in deciding the level of documentation needed, the allocation of responsibilities and workflows and identifying the undertaking's core business with regard to its risk management system as well as what they believe is important for such a process.

- 6.63. Hence, EIOPA believes it is necessary to set out the policy in such detail as to ensure proper governance and subsequently good results. This is a requirement of Articles 41(3) and 45 of Solvency II Directive, and this particular process requires a higher standard for the internal documentation as well as input for the supervisory report of the forward looking assessment. Accordingly, by requiring such a policy, EIOPA emphasizes that an appropriate level of detail is expected depending on the nature, scale and complexity of the risks inherent to the business of the undertaking.
- 6.64. With proper processes laid down in the policy of the forward looking assessment the undertaking ensures a better degree of quality for the assessment itself. Vice versa an assessment will be of less quality if important and significant sources of information will be overseen or if the responsibility of the AMSB is not clearly set out in the policy. This will be more costly for the undertaking at the beginning when setting up the policy. But as only good processes for the assessment will lead to good assessments it can be expected that in the long run this will cost less time and resources for the undertaking.
- 6.65. Therefore for the preparatory phase EIOPA considers appropriate for undertakings to develop a policy for their forward looking assessment of own risks.

5. Whether to require a quantitative assessment for all deviations from the standard formula regardless of its significance

- 6.66. An assessment of the deviation from the standard formula is required, in order to determine whether the deviation is significant. The question was whether the quantitative assessment of the deviation should be a Guideline to all deviations or only for significant deviations. This would entail that an initial qualitative assessment would be acceptable as an indication for the significance of the deviation.
- 6.67. EIOPA believes that the most appropriate approach to the assessment of the deviations is to perform a qualitative assessment as a first step, so that undertakings do not have to do a potential burdensome quantitative assessment for all deviations. EIOPA will expect quantification as a

second step, only if the qualitative assessment indicates a significant deviation from the assumptions underlying the Solvency Capital Requirement calculation.

- 6.68. On the other hand, the qualitative assessment of the deviation could be sufficient as a starting point, as quantification may be time consuming and costly and cannot be taken as definite anyway but there is an increased possibility of error, since the qualitative assessment may indicate that the deviation is not significant when in fact it is. EIOPA is aware of that quantification can be rather burdensome.
- 6.69. EIOPA accepts the error margin and only requires quantitative assessment when qualitative assessment indicates that deviation is significant and will have a material impact.
- 6.70. The same approach is taken on forward looking assessment of own risks during the preparatory phase.

6. Whether the use of the internal model should be allowed for the assessment of the continuous compliance with regulatory capital needs for undertakings in the pre-application process

- 6.71. With the assessment of the overall solvency needs being an undertaking's own assessment of the risks it is or could be exposed to and how they should be managed or covered with capital, it is understood that for undertakings seeking supervisory approval for an internal model that they have developed, this model is used in the assessment. If the undertaking did not trust its own model sufficiently to use it for its overall solvency needs assessment this would provide a strong reason to refuse approval of the model. However, for the assessment of the continuous compliance with regulatory capital needs that is to be performed by undertakings within the 80% market share threshold it is not obvious that use of the not yet approved internal model should be allowed instead of the use of the standard formula. EIOPA consequently discussed whether it is appropriate that potential internal model users should be required or should have the possibility to employ their internal model for this assessment.
- 6.72. Undertakings within the 80% market share threshold are expected to perform the assessment of the continuous compliance with regulatory capital requirements under Solvency II conditions in order to prepare for the change in capital needs that will follow the introduction of the quantitative requirements of the Solvency II regime. Undertakings that are in the pre-application phase for the internal model cannot be sure that their internal model will eventually be approved by the supervisory authority – at least not without some changes. There always remains an

element of uncertainty as to whether the steps taken by an undertaking to comply with the requirements on internal models are sufficient and appropriate with regard to the individual circumstances of the undertaking and the modelling it has chosen. If these undertakings were allowed to only use their internal model for assessing continuous compliance with Solvency II capital requirements this would entail the risk that their preparation for the Solvency II regime could be based on expectations that do not come to pass as approval of the internal model is refused. This could be avoided if they used in addition the standard formula for the assessment but in this case they could miss out on a better preparation for the use of the internal model during the pre-application period that they would benefit from where the assessment to be based on the internal model output. The use of the standard formula while providing information that could be useful for the pre-application process would also have serious drawbacks from the supervisory perspective as the supervisory authority loses a good opportunity to form a view about the appropriateness of the internal model the undertakings intend to submit for approval. On the other hand, if the internal model could not be approved as applied for it would be important to know what would be the outcome if the standard formula were to be used. Indeed for the supervisory authority it would be most advantageous to have both the information on the assessment based on the standard formula and the internal model as input to the pre-application process. EIOPA acknowledges that there are similar assessments in the pre-application process for the internal model and in the FLAOR process. Cross-references can be made as long as there are clearly identifiable.

- 6.73. The same approach is taken on forward looking assessment of own risks during the preparatory phase.

6: Comparing the options

- 6.74. Weighting the complexity of the assessments and the resources they would bind for undertakings and national competent authorities alike against the usefulness of the information these would render and the helpfulness of practicing the assessments in a dry run, EIOPA has come to the conclusion that these assessments should not be required from all undertakings but should be limited to undertakings which are also subject to submission of information as these assessments are even more challenging than providing the information for the purposes of submission of information. Hence, Guideline 3 introduces a threshold that is consistent with the threshold for submission of information on annual basis. Taking into account that for undertakings that have entered the pre-application phase for an internal model all relevant issues that are to be addressed in the assessment will be dealt with in the pre-application

process, the Guideline further excludes undertakings which are in the pre-application process from any requirement to perform this assessment even where the undertaking concerned is within the threshold.

- 6.75. EIOPA believes that the proposed policy options help achieve the objectives pursued in enhancing the protection of policyholders and beneficiaries and improving the international competitiveness of EU insurers and reinsurers, in an efficient and effective way. A specific characteristic of the policy options proposed, and which contributes to an effective and efficient result is that they allow for supervisory practices to be applied in a proportionate manner with respect to risks.
- 6.76. EIOPA appreciates that issuing these Guidelines may have an economic impact for undertakings. However the benefits of having a common understanding of the forward looking assessment of own risks between undertakings and supervisors are a vital step to ensure a level playing field and the much needed transparency. Hence, a common understanding on how an undertaking should assess its own risks on a continuous basis and how to use this information to ensure good governance within the undertaking.
- 6.77. The same applies for the option on whether to detail a policy on the forward looking assessment of own risks. Article 41 (3) of Solvency II Directive already requires a written policy for the risk management system and since the forward looking assessment is part of that, it makes most sense to require an appropriate policy on how to perform, manage, monitor and document this assessment as well as ensuring the AMSB's involvement in and understanding of the process. The policy on FLAOR can be an integrated part of the risk management policy which is clearly identifiable. Or the FLAOR policy can be a separated policy.
- 6.78. The option of whether to provide a structure for the forward looking assessment of own risks supervisory report was, that a certain level of harmonisation will be provided by draft Implementing Measures, and EIOPA found it better to give undertakings the flexibility of deciding what they find to be the relevant information that should be documented and disclosed to supervisors. The forward looking assessment of own risks can be a very complex process that involves most of the undertaking and it requires the AMSB to be involved in all policies, processes and procedures– especially their risk exposure and how to assess it. Furthermore is an undertaking-specific tool, which has to take into account the nature, scale and complexity and level of documentation undertakings prefer. Consequently, the option of providing a structure for the report was discarded, since it would be difficult to make a one-size-fits-all structure for the supervisory report.

- 6.79. Whether it is better for an undertaking to use the internal model it means to apply for or the standard formula in the assessment of the continuous compliance with capital requirements eventually depends on whether the internal model is approved as applied for or not. As it is not possible to predict at this point in time whether most internal model applications will be fully successful or not, the decision about the option cannot be based on what is likely to be the better solution for the majority of undertakings. It also does not seem appropriate to let the supervisory authority determine on an individual basis whether an undertaking should be allowed to use only the internal model for the assessment. This could be taken as predetermining the outcome of the approval process which is something the national competent authority should not do. Expecting the assessment on both bases, the internal model and the standard formula, while avoiding the drawbacks of both solutions increases the costs for undertakings as they would have to dedicate more resources in the preparation for the use of the internal model and the standard formula. The costs for the national competent authorities increase as well; as the range of the analysis for the undertaking grows more resources are needed to assess the undertaking's analysis. However, bearing in mind that the pre-application process is not a pre-approval process so that undertakings cannot rely on their internal model being approved as applied for and need to prepare for the eventuality that they may have to use the standard formula in any case by way of contingency planning, EIOPA decided to allow the use of the internal model for the assessment with the provision that the undertaking has then to explain the effect if it turns out the undertaking has to use the standard formula as approval for the model is refused. The increase in time and effort this costs the supervisory authority is balanced by the fact that the additional information enables the supervisory authority to make a better decision whether the application of the undertaking for the internal model should be approved. Consequently, the Guidelines state that during the preparatory phase national competent authorities should allow internal model users to perform the assessment of the continuous compliance with capital requirements based on their internal model provided that the undertaking is able to explain the effect on capital needs if the standard formula were to be used instead.
- 6.80. Finally EIOPA had the option of whether to require a quantitative assessment for all deviations or only when the qualitative assessment showed that there was a significant deviation from the assumptions underlying the Solvency Capital Requirement calculation.
- 6.81. EIOPA have accepted the error margin and will only require quantitative assessment when qualitative assessment indicates that deviation is

significant and could have a material impact on the risk and capital management.

7: Concluding remarks

6.82. The largest part of costs related to forward looking assessment of own risks arises directly from preparation to comply with Solvency II. Taking into account there are no Implementing Measures for ORSA, EIOPA Guidelines aim at detailing requirements already introduced by Article 45 of Solvency II Directive, so promoting a harmonized interpretation among undertakings and supervisors. Costs and benefits of EIOPA Guidelines can be summarized as in the following breakdown.

Undertakings

6.83. Additional costs for undertakings can be evaluated of a much minor scale with respect to those introduced by preparation for Solvency II:

- a) The request for a written forward looking assessment of own risks policy is a specification of what Solvency II already states for the ORSA under the overall risk-management system (article 41 of Solvency II Directive). Therefore there are no significant costs in relation to the preparatory Guidelines for undertakings;
- b) The same consideration can be valid for the supervisory report, which is required by Articles 35 and 45 of Solvency II Directive, and for which EIOPA decided not to set a predefined structure, but rather give the undertaking the opportunity to develop its own appropriate format;
- c) As for deviations from assessments based on the standard formula, also in this case EIOPA opted for a balanced interpretation of Solvency II, asking for quantification only in the case a first qualitative analysis indicates that the deviation is significant;
- d) The group-perspective applies *mutatis mutandis* and EIOPA just specified this perspective for the forward looking assessment of own risks, at the same time allowing the national competent authority of subsidiaries to require a translation into its language of the part of the group information regarding the entity concerned (when different from the language of the group in which the document for the forward looking assessment is written);
- e) The decision to perform a forward looking assessment of own risks at least annually (if no other relevant changes happen in the meanwhile), though a specification added by EIOPA, aligns to the normal frequency undertakings have to respect for budget purposes and capital requirement calculations;
- f) Finally, EIOPA Guideline to record each process or the forward looking assessment and produce an internal forward looking assessment of

own risks report, to favour sharing information within the undertaking, should be seen as a straightforward consequence of the request in Solvency II Directive to insert the forward looking assessment in the overall risk-management system with a management benefit for the understanding.

- 6.84. In front of minor additional costs arising from EIOPA Guidelines, undertakings would gain benefits:
- a) Help in organising forward looking assessment of own risks processes and linking it to the other parts of governance;
 - b) Prevent possible errors in the risk management and solvency needs and therefore costly adjustments for the undertaking;
 - c) Give the basis of a common European understanding for all undertakings about the relevance of risk management and solvency needs, strengthening soundness and transparency of the market, and promoting best practices across countries;
 - d) Can simplify the interactions between undertakings and supervisory authorities, so allowing avoiding costs connected to other supervisory review and / or possible revisions of the regulation set.
- 6.85. All possible costs arising from the Guidelines have an on-going nature, related to the periodical assessments.

Supervisory Authorities

- 6.86. Also on the side of supervisory authorities, the largest part of costs related to the forward looking assessment of own risks arises directly from preparation for Solvency II. In particular, Authorities will be asked to analyse, at least year by year, supervisory reports, in order to verify, for each undertaking, overall solvency needs and possible effects of deviations from the underlying assumptions of the standard formula. Cost added by EIOPA Guidelines can be considered of a much minor scale. However, the choice not to give a unique predefined template to the supervisory report can, at least to some extent, complicate the functions of national competent authorities. The same consideration can be repeated also for the choice to require quantitative evaluations of deviations from the standard formula not in every case, but only when a qualitative analysis has indicated possible significant differences. This option could imply more attention by national competent authorities in verifying qualitative arguments proposed by undertakings.
- 6.87. In front of these minor additional costs, authorities will surely benefit from the overall package of Guidelines for the preparatory phase, by gaining a far better insight in the risk and capital situation of an undertaking. Moreover, the forward looking perspective can serve as an

indicator of future supervisory reviews and measures. Assuring that supervision and controls will apply to a more homogeneous and harmonized set of regulation within each country and across countries is another benefit from the Guidelines. The functions of national competent authorities will be simplified, favouring cooperation among supervisors and, as for undertakings, the emergence of best practices.

- 6.88. Also on the side of national competent authorities, costs arising from the Guidelines have an on-going nature, related to the periodical assessments.

Policyholders

- 6.89. While the overall costs of implementing the forward looking assessment of own risks could be, at least to some extent, transferred from undertakings to consumers depending on market conditions prevailing in each country, no additional costs are expected for consumers directly from EIOPA preparatory Guidelines. Consumers will surely benefit from the sounder governance and the higher level of transparency associated with formal own risk assessments, well inserted inside the overall risk-management system.
- 6.90. EIOPA believes that the application of the proposed preparatory Guidelines ensures a harmonised and comparable basis for undertakings' risk and capital management as well as for the risk-based supervisory assessment. Moreover EIOPA is convinced that the application of these Guidelines will ensure common understanding and a level playing field.

Appendix 2: Resolution of comments

Summary of Comments on Consultation Paper No. 13/09 - EIOPA-CP-13/09				27 September 2013
CP-13-009_FwdLooking_Assessment				
<p>EIOPA would like to thank ACA, AMICE, Aon, ASSOCIATION OF BERMUDA INSURERS AND REINSURERS (AB, Association of Financial Mutuals, ASSURALIA, CNA Insurance, CRO Forum and CFO Forum, Deloitte Touche Tohmatsu, DIMA (Dublin International Insurance & Management), ECIROA, FEE, General Insurance Corporation of India, German Insurance Association (GDV), Groupe Consultatif Actuariel Européen, Institut des Actuaire, Insurance and Reinsurance Stakeholder Group (IRSG), Insurance Association of Cyprus, Insurance Europe, Insurance Ireland, International Underwriting Association of London (IUA), Investment & Life Assurance Group Limited (ILAG), Lloyd's, MetLife, MGM Advantage, MSV Life, Munich Re, Nordea Life & Pensions, Polish Chamber of Insurance, Powszechny Zakład Ubezpieczeń Spółka Akcyjna, ROAM-Réunion des Organismes d'assurance mutuelle, RSA Insurance Group, Steptoe & Johnson LLP and The Bermuda Monetary Authority (BMA).</p> <p>The numbering of the paragraphs refers to Consultation Paper No. 13/09 (EIOPA-CP-13/09)</p>				
No.	Name	Reference	Comment	Resolution
1.	ACA	General Comment	<p>ACA is the professional association of insurance companies based in Luxembourg, with offices located 12, rue Erasme L-1468 Luxembourg.</p> <p>ACA especially supports that the guidelines to be emitted by NCA have to respect the proportionality principle as set out in the directive.</p>	Noted
2.	AMICE	General Comment	<p>As a general comment, the decision to apply a higher threshold from the minimum market coverage of 80% of the market share in each Member State should not be left to national Member State discretion. To ensure a level playing field, it is important that a common approach is adopted across the EU.</p> <p>Implementation costs</p>	The composition of the market place varies considerably from Member State to Member State. A strict adherence to the threshold would imply that in some Member States the majority of undertakings will not be

			<p>While supportive of the need to start preparing for Solvency II before the whole framework becomes fully applicable, the AMICE members are concerned about the requirement to implement elements of these guidelines which may need to be changed as a result of the outcome of the political negotiations. It would not be proportionate to oblige undertakings to incur costs to implement a regulation which might be subject to changes.</p> <p>We find some elements of these guidelines on the forward looking assessment of the undertaking's own risks slightly ambitious. We are also not at all sure that the benefits for supervisors and consumers will outweigh the cost to the undertakings, and thus for policyholders, which will be substantial.</p> <p>Scope</p> <p>The scope of the Guidelines should be restricted to the title of the consultation, (i.e the forward looking assessment process of the ORSA); the assessment of the deviations of the undertaking's own risk profile from the assumptions underlying the standard formula and the continuous monitoring of the solvency (coverage of best estimates and SCR) will not be feasible in the proposed time frame. This will need to be dedicated to this new forward looking assessment process according to the undertaking's own view and methods.</p> <p>The phasing-in period should be dedicated to the qualitative and primary outcome of the ORSA which is the implementation of the risk management processes that are intertwined with the undertaking's system of governance (AMSB, key functions, committees). Undertakings will need to dedicate significant amounts of resources to implement these</p>	<p>included which is not in line with the purpose.</p> <p>Those assessments which are more reliable on the on-going OMD II discussions will only be required once they are final and once EIOPA has provided technical specifications.</p> <p>See Feedback Statement 'Purpose of the preparatory phase'.</p> <p>The principle of proportionality applies, but that being said, the costs to implement Solvency II have to be incurred sooner or later. Please see EIOPA Final Report on Public Consultation No. 11/008 on the Proposal for Guidelines on Own Risk and Solvency Assessment published 9 July 2012.</p> <p>See Feedback Statement 'Purpose of the preparatory phase'.</p>
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			<p>requirements in the undertaking's strategic planning process, the launching of new products and the production of the written policies.</p> <p>Proportionality</p> <p>It is absolutely necessary to avoid overburdening companies in general, particularly small and medium-sized insurers, with unnecessary obligations. The proportionality principle should be further developed in these guidelines. The ORSA should be conducted in a comparable level of materiality and proportionality that is in the firm's standard formula or internal model.</p> <p>Furthermore, the decision on materiality thresholds proposed in these interim measures could be maintained after this period to reflect proportionality.</p> <p>Increasing flexibility</p> <p>Another way of limiting the burden on companies is to allow the assessment of the overall solvency needs based on Solvency I principles or/and assessed on a qualitative basis only, should there be no agreement on Omnibus II by the end of 2013.</p> <p>For insurance companies specialised in providing pension and retirement-related products, their own solvency assessment is the only way to link the undertaking's strategy with the capital requirements; any request to compare the outcome with the standard regulatory solvency requirements would be inadequate, insofar as the standard approach is not tailored to</p>	<p>The pure qualitative performance of FLAOR does not prepare for a full implementation of Solvency II.</p> <p>See Feedback Statement 'Principle based approach and proportionality principle'</p> <p>Disagree</p> <p>A very important aspect of the ORSA is the obligation to perform a quantitative analysis of The overall solvency needs. To restrict the preparatory phase to deal with processes and qualitative aspects only is therefore not in line with the overall purpose.</p> <p>The undertaking can decide on its appropriate approach to assess its solvency</p>
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			<p>this type of business (as clearly stated in Omnibus II).</p> <p>Distinction between ORSA process and ORSA report</p> <p>A full ORSA process should be conducted at least once a year. However, a full ORSA report containing the annual results of the process should only be submitted to the supervisory authorities as from 2015 once the process has been implemented and the narrative report and reporting templates have been submitted. The date of the full process and the ORSA report to the supervisory authorities should therefore be left to the discretion of the undertakings themselves.</p> <p>Documentation requests</p> <p>It is absolutely necessary to avoid any duplication of the documentation requests during the interim phase. Supervisory authorities should accept the internal report for supervisory reporting purposes on the condition that it is submitted by the companies. Furthermore, should there be no agreement on Omnibus II and the Level 2 Delegated Acts are not published by the end of 2013, it should not be expected from companies to invest in IT or other resources fully dedicated to ORSA process, reporting or documentation (including records).</p> <p>It would be useful if EIOPA could provide clarification on what would be the expected requirements on the ORSA should there be further delays to the Solvency II Directive.</p>	<p>needs and risk profile.</p> <p>The first FLAOR report will be required in the course of 2014 at least with regard to overall solvency needs.</p> <p>For the other assessments EIOPA will provide technical specifications and will only require those from 2015.</p> <p>Partially disagree; the setting of internal process and policies for the performance of FLAOR is not fully dependant on the outcome of OMDII. If an undertaking deems it appropriate to send the internal FLAOR report to the relevant NCA it can choose to do so.</p> <p>See Feedback Statement specific part.</p>
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			<p>Single Forward looking assessment of the undertaking 's own funds</p> <p>If the complexity of implementing the ORSA at solo level is significant, the problems at group level are even larger, namely the definition of the scope of the group ORSA, the treatment of foreign subsidiaries, etc. It is essential that companies are not obliged to conduct this exercise at group level. The exercise should allow both companies and regulators to increase their mutual understanding of an area of work in which there is still insufficient experience to be the object of prescriptive regulations.</p>	<p>Disagree; the FLAOR on group level is essential for the undertaking and the supervisors to understand better the risk the undertaking is facing and its solvency needs.</p>
3.	ASSOCIATION OF BERMUDA INSURERS AND REINSURERS (ABIR)	General Comment	<p>The Association of Bermuda Insurers and Reinsurers (ABIR) is grateful for the opportunity to provide comments on the Consultation Paper. ABIR is a professional trade association representing Bermuda's Class 4 insurers and reinsurers. Our 21 members write a significant amount of insurance and reinsurance from both subsidiary corporations in Europe and from cross border export sales from Europe to our Bermuda underwriting headquarters. Eighteen of our 21 member companies have European subsidiary corporations.</p> <p>EIOPA in its cover note (EIOPA CP-13/015) requested that comments present a clear rationale and description of alternatives for EIOPA's consideration. ABIR has responded to this request with our comments below.</p>	Noted
4.	Association of Financial Mutuals	General Comment	<p>The Association of Financial Mutuals represent financial mutual insurers within the UK, with 53 member companies and assets approach £100 billion. We welcome the chance to comment on this consultation paper.</p>	Noted
5.	ASSURALIA	General Comment	<p>Assuralia (Belgium association of insurance undertakings) welcomes the opportunity to comment on the consultation paper on the proposal for Guidelines on the Forward looking assessment of the undertaking's own risks.</p>	Noted

			<p>Assuralia supports an early implementation of a forward looking risk assessment that improves the undertakings' understanding of their business and risks.</p> <p>However a preparatory exercise to be conducted in addition to the current system requires significantly more of the undertaking's resources. In this view more flexibility on the requirements and regulatory deadlines should be brought in.</p> <p>We believe that the focus should be on the undertakings' own assessment and not on the assessment of Solvency II Pillar I elements which are not stable yet. As such, there should be no quantitative requirements in Pillar II and in particular in the forward looking assessment of the undertaking's own risks as long as Pillar I is not finalised.</p> <p>Overall it is not very clear what the intended level of implementation of these requirements is during the preparatory phase. More specifically, referring to the 80% threshold, It is difficult to understand how proportionality and flexibility will be applied at the national market level.</p> <p>EIOPA should endeavour 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 not require an extensive amount of time for the undertakings. Also, any information addressed to the NCAs may not lead to any supervisory measures or sanctions during the preparatory stage of the interim measures.</p> <p>Maybe it is useful to indicate in the cover note that some requirements, including the supervisory reporting on 1rst pillar information and elements</p>	<p>Noted</p> <p>It is up to the relevant NCA to decide if to comply with the EIOPA preparatory Guidelines.</p> <p>EIOPA will provide technical specifications and will only request the assessment of overall solvency needs before those specifications have been published.</p> <p>See Feedback Statement</p> <p>It is the NCA to decide how to comply with the preparatory Guidelines; see Feedback Statement 'Supervisory Action / Enforcement measures'</p> <p>See Feedback Statement</p>
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			of the forward looking assessment of the undertaking's own risks, may change in function of the Omnibus II negotiations.	
6.	CNA Insurance	General Comment	<p>CICL supports the European Insurance and Occupational Pensions Authority's (EIOPA) goal of providing a "consistent and convergent approach with respect to the preparation of Solvency II"; however, we believe that requiring completion of, and continuous compliance with, Solvency II requirements well ahead of the official implementation date adds additional cost and complexity that in our opinion outweighs any potential benefit obtained from such early compliance. As proposed, the Interim Measures require undertakings to essentially operate under dual regulatory requirements which is both inefficient and overly burdensome. In addition, we have reservations about moving forward with what is essentially an early implementation of Solvency II prior to the adoption of Omnibus II, as we recognize there are still certain aspects of Omnibus II being debated and even those issues which have been resolved are subject to change until Omnibus II is formally adopted. Going through the cost and effort to comply with certain Solvency II requirements only to have them change prior to the full implementation of Solvency II would be a great deal of time, effort and resources wasted.</p>	<p>Noted</p> <p>It is crucial to prepare for the full application of Solvency II requirements even though compliance is not requested on 1 January 14.</p> <p>EIOPA will provide technical specifications once OMD II has reached on agreement.</p>
7.	CRO Forum and CFO Forum	General Comment	<p>Joint CFO Forum and CRO Forum feedback on Interim measures</p> <p>We reiterate our support for the efforts made by EIOPA in seeking to achieve harmonised progress towards the implementation of Solvency 2 in the European Union and welcome the opportunity to comment on these consultations.</p> <p>We look forward to engaging with you and your team constructively as EIOPA finalises the guidelines for the interim period.</p> <p>We have some specific concerns in respect of Forward Looking assessment of the undertaking's own risks (based on the ORSA principles) as set out</p>	<p>EIOPA will provide technical specifications once OMD II has reached an agreement. During 2014 only the assessment on the overall solvency needs will be required.</p> <p>/ 3. For undertakings engaged in a pre-application process for internal models, according to Guideline 1 of the Pre-application Guidelines for Internal</p>

			<p>below.</p> <p>1. The forward looking assessment should reflect strategic management processes. It will only be appropriate to link with the strategy, business and capital management process where an internally defined economic capital projection and/or existing regulatory regime may be used instead of the requirement to project on a Solvency 2 regulatory basis. This is because the internal economic capital basis and/or the existing regulatory regime is being used to run the business whereas the Solvency 2 basis is not fully defined and not a current regulatory requirement (nor expected to be a regulatory requirement until 1/1/2016).</p> <p>If the guidelines are introduced as drafted, the forward looking assessment (on ORSA principles) will become less useful as a management tool and more of a compliance exercise.</p> <p>2. Companies should have the option to use their internally defined Economic Capital basis and / or existing regulatory regime, during the interim period. The guidelines require firms to project on a Solvency 2 basis and assess the quality (including composition) and quantity of own funds over the projection period. It would be more appropriate during the interim period for firms to provide this projection on an internally defined Economic Capital basis, which will be used when making decisions on the future capital management or business plans.</p> <p>3. It would not be appropriate for firms in the pre-application process for an internal model to also project the business plan on a Solvency 2 Standard Formula basis. We therefore have concerns around EIOPA's proposal that companies in the Internal Model pre-application process should prepare for the eventuality that the application to use the internal model is rejected.</p>	<p>Models, it is expected that they prepare for the eventuality that their internal model may not be approved and set up processes to calculate the standard formula Solvency Capital Requirement as well as consider the capital planning implications. ETo be in line with this, in the assessment of the continuous compliance with regulatory capital needs, undertakings in pre-application may use the internal model for such an assessment provided that they demonstrate that they are preparing for the eventuality that their model may not be approved in the terms set out in Guideline 1 of the Pre-application Guidelines for Internal Models</p> <p>4. See response to 1.; the FLAOR exercise should prepare to all aspects of the later Solvency II</p>
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			<p>The guidelines should be clarified to require a qualitative assessment only of the likely future impact on risk and solvency needs of using the Solvency 2 Standard Formula basis.</p> <p>4. The review clause foreseen by EIOPA should apply to all aspects of Interim Measures, not only reporting. For example, if the Technical Provision rules (i.e. Level 2 Implementing Measures) are not finalised when these guidelines implement, it is not clear how firms could assess their future continuous compliance with the requirements regarding Technical provisions. In any case, there is no value in this exercise (for firms or the NCA) until the regulations are 'live'.</p>	requirements in an appropriate proportionate way.
8.	Deloitte Touche Tohmatsu	General Comment	<p>Please find below a range of general comments.</p> <p><input type="checkbox"/> The link to the Cover note seems to be missing. Specially the difference in NCAs legal competence is important wherever NCAs should "ensure" the implementation of the guidelines.</p> <p><input type="checkbox"/> The Guideline refers to "Forward Looking Assessment" of the undertaking's own risks (based on ORSA principles). EIOPA decided to name it differently from ORSA. We interpreted that the reason was to differentiate the preparatory phase activity (with a partial coverage of the Solvency II requirements) from the activities to be done when Solvency II will come into force. Thus referring to FLA for the preparatory requirements, and to ORSA for Solvency II final requirements, it would be appreciated if the document could clearly explain what needs to be achieved by the forward looking assessment of the undertaking's own risks (based on ORSA principles) in comparison to the final ORSA under Solvency II.</p> <p><input type="checkbox"/> There seems to be some differences in terminology between the SoG CP and the FLA CP (example "Risk Appetite" is not mentioned in the FLA but in SoG).</p>	<p>The Cover Note only helped to give an understanding of general aspects for the consultation. Please see now Feedback Statement.</p> <p>Agree; see Feedback Statement</p> <p>The FLAOR is part of the System of Governance.</p>
9.	DIMA (Dublin	General	Various aspects of these proposals will cause problems, not least because	The aim of the forward

	International Insurance & Management)	Comment	<p>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 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"> <input type="checkbox"/> 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 <input type="checkbox"/> it is not clear under what legislation the guidelines would be expected to apply to groups prior to the introduction of Solvency II. 	<p>looking assessment is to prepare for Solvency II and not for Solvency I.</p> <p>See Feedback Statement 'Supervisory Action / Enforcement measures'. It is up to the NCA to decide how to comply with these Guidelines.</p> <p>See Feedback Statement 'Status of the Explanatory Text'</p> <p>It is up to the undertaking to decide on the supervisory report for FLAOR. The requirement to report on this is not new for the preparatory Guidelines but based in Article 45 (6) of the Directive.</p> <p>The Guidelines apply mutatis mutandis to groups. Groups are expected to perform FLAOR as a preparatory exercise for Solvency II.</p>
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				In addition, as it is a forward looking exercise, it is expected that the undertakings and groups are expected to use the results of this exercise to make decisions in order to be ready when Solvency II comes into force.
10.	ECIROA	General Comment	<p>We emphasize our commitment to implement Sol II recognizing that it is more sophisticated than Sol I. We advise again to consider that the more descriptive the requirements are, the less room is left to the application of the Proportionality Principle because NCAs will implement even more tough and challenging rules which may reduce the opportunity and ability to apply guidelines in an appropriate way. EIOPA should determine haircuts to avoid a competition between the NCAs with the potential consequence of a flight to arbitrage advantages by choosing the “perfect” NCA.</p> <p>Captives are simple structures and therefore there is a limited number of persons involved in their daily management as well as in their strategic decision-making processes. This is consistent with the needs and the risks inherent to their middle/long term business issues and day-to-day operations.</p> <p>Solvency II in general and Pillar 2 in particular provides captives with the opportunity to formalize and develop their organizational structure and daily operations, thus enhancing their existing controls.</p> <p>A key function, a control measure, and a report whether addressed to internal or external stakeholders, must be justified by the scale and complexity of the business. The materiality of the overall governance structure must be aligned with the materiality of the business.</p>	<p>See Feedback Statement ‘Proportionality’ and ‘Supervisory Actions / Enforcement measures’.</p> <p>Noted</p> <p>Please see Feedback Statement ‘Proportionality’. It is up</p>

			<p>Comments on the ORSA for captives</p> <p>As per governance issues, although we understand the necessity to address risk issues in a qualitative and quantitative manner over a certain period of time, one shall preserve the possibility for captives to treat qualitative and quantitative aspects of their risks in a way that is adapted to their culture and business. This means avoiding the imposition of strong and wide requirements at an European level. Based on the principle of proportionality and the inherent major differences between the types of undertakings on the insurance and reinsurance markets (from single-risk captives to multinational and highly-diversified insurance companies), the ORSA shall cover a wide range of approaches. And questioning the relevancy of the ORSA shall focus more on the quality of the justification than on the complexity of the chosen approach. This would both encourage all undertakings to play an active role in the implementation of the Directive and enable them to define along with local regulators a coherent and flexible model whose materiality is - once again - adjusted to the materiality of their respective business.</p> <p>Guideline 3 in combination with Guideline 5-7 of CP-13-010 will allow local NCAs to accept that captives can wait with reports until the official start of Sol II because the volume of the captive business underwritten in the member countries is part of the last 20% percentile per country (looking at the size and ranking).</p>	<p>to the undertaking to choose those measures in its FLAOR which reflects appropriately its risks profile.</p> <p>Noted</p>
12.	FEE	General Comment	<p>FEE welcomes the publication of this paper and EIOPA's attempts to encourage convergence among NCAs in the area of the ORSA. Because some member states have already made progress on implementing ORSA-style requirements (each with their own national legislation), the achieving of convergence on ORSA across the EU is going to be a challenge. This is especially true as the requirements proposed in the preparatory are very similar to those included in the respective level 3 text, so we wonder if in a preparatory phase some reliefs seem to be adequate, e.g. concerning those requirements which depend on the existence of pillar 1 rules (i.e. forward looking assessment of own risks and the fulfilment of the requirements on the Solvency II technical provisions).</p>	<p>EIOPA only request the assessment of overall solvency needs for the year 2014; for the other assessments technical specifications will be provided and therefore those assessments only start for the FLAOR 2015</p>

14.	German Insurance Association (GDV)	General Comment	<p>We welcome EIOPA's intention of setting a harmonized path for the preparation of the forward looking assessment of undertaking's own risks.</p> <p>However, we take a very critical view on the fact that the implementation of the forward looking assessment of the undertaking's own risks implies almost a complete calculation of Pillar I (particularly guidelines 11 and 14 to 16). At the moment, key aspects of the methodology of Pillar I are subject to an impact assessment (LTGA). It is indispensable to consider the results and findings of this study when developing the future rules. This especially applies to the requirements concerning the the valuation of technical provisions and standard formula. As these aspects are rather controversial on political level (Trilogue or Level 2), they should not be pre-empted in the context of the Guidelines.</p> <p>Further the reparatory Measures should focus on solo undertakings. The current Guidelines also call for an early application of the Pillar I calculations for groups. Material elements of group calculations under Pillar I are still in need of clarification. Problems in the previous tests caused that the group level rules were never fully tested; as such enormous costs and potentially misleading conclusions are to be expected. The practicability and appropriateness of the proposed rules should be reviewed based on the solo level. Therefor, the implementation of Pillar I calculations at group level should follow in a next step after Solvency II comes into force</p> <p>Regardless it should be ensured that the tresholds consistently implemented (concern particularly guideline 11 and 22).</p>	<p>EIOPA will only request the assessment of the overall solvency needs in 2014; for the other assessments (GL 14-16) EIOPA will provide technical specifications in the course of 2014 and will require undertaking to perform those in 2015.</p> <p>Disagree; the FLAOR on group level is essential for the undertaking and the supervisors to understand better the risk the undertaking is facing and its solvency needs.</p> <p>It is up to the NCAs to decide how to apply the preparatory Guidelines including the threshold.</p>
15.	Groupe Consultatif Actuariel	General Comment	<p>We welcome an early preparation for the application of Solvency II. The guidelines should also help to promote consistency across member states.</p>	Noted

	Européen		<p>We believe the introduction of the ORSA will be of great benefit from a risk management perspective and that it is important that (re)insurers should make progress in establishing their ORSA process during the preparatory phase. We expect that the quality of ORSA submissions will evolve and improve over time. In this respect the preparatory phase allows a baseline “best efforts” ORSA to be established by the time Solvency II goes live.</p> <p>But it has to be acknowledged that by now there is still no reliable basis for the calculation of e.g. technical provisions.</p> <p>Our comments and observations should be seen in the context of supporting the thrust of the guidelines while recognising some of the practical challenges they create for (re)insurers.</p> <p>As required by EIOPA, we will focus our comments on the guidelines and not on the Explanatory Text. But we would like to emphasize that the Explanatory Text contains various requirements that seem to be not consistent with the guideline. There is a risk that the explanations reflect future supervisory expectations, so a consultation should either reflect these or they should entirely be deleted.</p> <p>It would be helpful to clarify the impact that these preliminary implementation of Solvency II are expected to have on the activities of the regulators. According to the cover letter (in 1.5) that NCAs are not required to take action for undertakings not complying with Solvency II (and Pillar I) requirements. This may lead to differing approaches across the European markets, which would not be in the spirit of Solvency II as long as Omnibus 2 is not adopted and therefore Solvency I is the predominant supervisory instrument in daily business of the companies. .</p> <p>A Solvency II basis is mentioned throughout these guidelines. Although there is continuing progress towards a common understanding of what this means, there are still significant areas of uncertainty as long as the technical specifications for the valuation of long term business in particular</p>	<p>EIOPA will only request the assessment of the overall solvency needs in 2014; for the other assessments (GL 14-16) EIOPA will provide technical specifications in the course of 2014 and will require undertaking to perform those in 2015.</p> <p>See Feedback Statement ‘Explanatory Text’ and ‘Supervisory Action / Enforcement measures’.</p> <p>It is up to the NCA how they decide to comply with these Guidelines.</p>
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			<p>are still missing or unclear. The risk of forcing firms to use a basis with an unconfirmed regulatory provenance is that the ORSA will not, in the run up to Solvency II, be the useful management tool that is intended to be.</p> <p>Hence, it has to be considered that the guidelines do not contain violations of the level playing field, neither during the preparatory phase, nor afterwards. It should be paid attention to the fact that regarding regulatory law, no two class society will evolve.</p> <p>Regarding the reporting dates and periods, we recommend consistency with the other preparatory guidelines.</p> <p>Some observations:</p> <p>a) Overall the guidelines are very similar to a full implementation of the ORSA guidelines from 2012, and go beyond what we would expect for a "preparatory phase". In particular, the guidelines are almost identical to those in the Final Report on CP08 published by EIOPA in July 2012. There is no reference to the fact that different regulatory capital requirements will be in place during 2014 and 2015. Undertakings are being asked to perform an ORSA, and to use its output, "as if" the Solvency II was in place. This does not fit in with the reality of undertakings operating in a Solvency I regime.</p> <p>The guidelines should be amended to recognise the reality of companies operating under Solvency I for regulatory purposes during the preparatory phase.</p> <p>b) One difficulty we foresee is the requirement to analyse regulatory solvency on a Solvency II basis before this is the actual regulatory requirement. This "shadow Solvency II" imposes extra burdens on insurers without any clear benefit.</p>	<p>There is no special reporting date for the FLAOR supervisory report, it has to be in accordance with Article 45 (6) of the Solvency II Directive.</p> <p>See above; different timings for different assessments during the preparatory phase are clearly diverging from the Final Report in 2012. FLAOR should prepare for Solvency II and not for Solvency I.</p> <p>See above; EIOPA will provide technical specifications; agree see revised preparatory Guidelines.</p> <p>Agree; see revised preparatory Guidelines</p>
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			<p>An alternative phased approach would see insurers providing information on a planned timetable over 2014/15 to the regulator to demonstrate preparation for the ORSA culminating in a full ORSA “dry run” in the second half of 2015.</p> <p>c) The requirement to project regulatory solvency on a SII basis as early as 2014 is very ambitious and the effort required by insurers should not be underestimated.</p> <p>We propose an alternative where insurers would have the option to apply the preparatory guidelines for ORSA/FLA in an incremental fashion over 2014-15. In particular, those guidelines referring to Solvency II regulatory requirements and technical provisions could be deferred until the later part of the preparatory phase and the initial assessment in 2014 would concentrate on the “own assessment” of solvency needs.</p> <p>d) The guidelines apply in different ways to different companies depending on the market share thresholds as set out in guideline 3.</p> <p>It would be much clearer to show a table of the guidelines with an indication for each individual guideline of whether, and to whom, it applies during the preparatory phase.</p> <p>e) We find the timing of the requirements unclear – in particular is a FLA required in 2014 or required in 2015 based on end 2014 position?</p> <p>The terminology “as of 2014” should be clarified, for example by giving specific values for the latest “as-at” date and the latest completion-date for the assessment.</p> <p>f) With no fixed implementation date for Solvency II currently available, we note that any such parallel running may be in place for an extended</p>	<p>Noted</p> <p>In accordance with Guideline 18 the first FLAOR needs to be performed (and concluded) in the year 2014. The supervisory report should be submitted in line with Guideline 10.</p> <p>Disagree</p> <p>Guidelines have been amended.</p> <p>And please see Feedback Statement.</p> <p>Please see Feedback Statement.</p>
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			period of time at significant costs to firms and consumers. The consultation depends on there being a limited preparatory phase. However if SII is further delayed beyond 2016 then the requirements in this consultation should also be delayed to avoid too long of a "shadow phase".	
17.	Institut des Actuares	General Comment	<p>The Institut des Actuares welcomes this CP, which guidelines are in line with the spirit of the directive.. This CP is named Forward looking assessment of the undertaking's own risks, which is more restrictive than ORSA (why?). Nevertheless the content of the CP seems as large as ORSA.</p> <p>This CP is not very prescriptive which is appropriate for internal studies as the ORSA.</p>	<p>These preparatory Guidelines are based on EIOPA Final Report on Public Consultation No. 11/008 On the Proposal for Guidelines On Own Risk and Solvency Assessment from July 2012. As in this Final Report the preparatory Guidelines leave the decision what measures are appropriate to reflect the undertaking's risk profile to the undertaking itself.</p>
18.	Insurance and Reinsurance Stakeholder Group (IRSG)	General Comment	<p>The guidelines are focusing on the Forward looking assessment of the ORSA explaining that this forward looking assessment can be undertaken irrespective of what regulatory quantitative requirements are applicable and so eventhough Pillar 1 is not clear.</p> <p>The 2 other parts of ORSA: (i) assessment of the continuous compliance with regulatory capital requirements and the requirements on technical provisions (ii) and the assessment of the significance of the deviation of the risk profile of an undertaking from the assumptions underlying the calculation of the SCR have a strong connection solvency II Pillar 1 which are not yet applicable during preparatory period.</p>	<p>EIOPA will only request the assessment of the overall solvency needs in 2014; for the other assessments (GL 14-16) EIOPA will provide technical specifications in the course of 2014 and will require undertaking to perform those in 2015.</p>

			<p>However, the Guideline 3 sets the full scope for ORSA as a requirement for all undertakings :</p> <ul style="list-style-type: none"> - Falling in the 80% of the market as defined for pillar 3 transitory measures - Or groups falling in scope for submitting annual quantitative information - Or undertakings with an internal model <p>This leads to the requirement to perform a calculation which is not clearly defined, for an assessment which is not a regulatory basis and that will add to the requirement to compare with an internal model "approvable" by the NCAs. There is little room for an "own risk and solvency assessment" under this framework, meaning for an economic capital reflecting how the company consider its risk exposure. This will not help undertakings to draw management attention on the results of the ORSA. Eventhough an agreement is reached on Pillar 1 by end 2013, the guidelines are too constraining for an interim period. And if no agreement is reached, it is simply not feasible.</p> <p>Calibrate or calculate pillar 1 figures without an adopted basis is not feasible.</p> <p>The supervisory benefit of an instrument such as a forward looking assessment which is not based on a stable and clear basis is more than questionable.</p> <p>The outcome of the LTGA shows that it is risky to suppose compliance with Solvency II for all undertakings without having found an appropriate solution for the long term guarantee business. In addition, the definition of compliance with Solvency II is still unclear until at least the Omnibus II has been adopted.</p> <p>The guidelines of a forward looking assessment which is included in</p>	<p>See above and Feedback Statement</p> <p>Agree; therefore see above</p>
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			<p>package of interim measures are not principles based but consist of very detailed regulations and processes where no clear legal basis is available. The rules are very detailed and elaborated and the requirements of the documentation are complicated to fulfill.</p> <p>We would have welcomed Guidelines providing incentive to implement, run and report on a true and internally trusted ORSA process, built on the assessment methodology reflecting the current internal management understanding of risk exposure and solvency position.</p> <p>Similarly, for an undertaking with no internal model, the assessment of whether or how the risk profile of an undertaking compares with the assumptions underlying the standard formula may prove difficult. The EIOPA paper describing the assumptions underlying the standard formula is essential to help there.</p> <p>Explanatory text</p> <p>There are problematic discrepancies between the guidelines and the explanatory text that lead to uncertainty about what requirements companies need to fulfil. The explanatory text on several occasions provides more detailed, additional requirements in a prescriptive way, rather than providing additional information and examples.</p> <p>The discrepancy pointed out here need to be corrected and the way to do it is to make the explanatory text less prescriptive, not adding requirements in the guidelines. The following are prominent examples of when the explanatory text inappropriately can be read as providing additional requirements: Paragraphs 3.18 (record of each FLA), 3.36 (components of the ORSA), and 3.59 (process for analysing deviations from assumptions) of the explanatory text document.</p>	<p>It is the undertaking who decides on appropriate measures in order to reflect its risk profile.</p> <p>EIOPA will provide such paper in the course of 2014.</p> <p>See Feedback Statement 'Status of the Explanatory Text'; the Explanatory Text is outside the scope for the consultation</p> <p>EIOPA has changed the wording in the first and third example to clarify that these are</p>
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				expectations and not requirements.
19.	Insurance Association of Cyprus	General Comment	<p>1. We believe it is not legally sound to require insurance companies to comply with guidelines which are not in line with current national legal frameworks. In Cyprus the existing insurance regulatory framework (Solvency 1) is significantly different from Solvency II, and in fact the national law transposing Solvency II would result to a complete new legal framework. Introducing a major part of Solvency II via EIOPA's Guidelines necessitates a major overhaul of the existing regulatory framework. This will prove an extremely burdensome, complicated and lengthy legal process which will result in defocusing the industry from the implementation of a phase-in approach to the legal process for amending the laws.</p> <p>We favour a voluntary approach during this preparatory phase, with supervisory authorities seeking a commitment from the insurance industry to comply with guidelines. If this would not be the case then it is most important that sufficient time is allowed for the necessary amendments to the law to accommodate the guidelines.</p> <p>3. We do not support a requirement for undertakings to also comply with the contents of relevant draft Level 2 text. Clarification is requested on whether undertakings will, apart from the guidelines, also have to comply with the contents of the relevant Level 1 and Level 2 text.</p> <p>4. We do not support any requirements in the guidelines that require Solvency II pillar 1 calculations for the carrying out of ORSA. This would be too burdensome and not appropriate for a preparatory stage, during which Solvency I calculations should be accepted. Solvency II pillar 1 should only apply when Solvency II is introduced in 2016.</p> <p>5. We do not support the requirement that an ORSA report be submitted to supervisors by the end of 2014. Firstly, we expect that many of the elements necessary to underpin the performance of the ORSA (such as risk management system/policy/function) will not be in place before the end of 2014. Secondly, the guidelines are too far reaching and detailed concerning the Supervisory Report to be submitted on ORSA, which we believe is not warranted at this preparatory stage. Thirdly, reporting by</p>	<p>See Feedback Statement 'General comments'</p> <p>It is up to the NCAs to decide how to comply with these preparatory Guidelines.</p> <p>See Feedback Statement 'Status of the Solvency II Directive and Implementing Measures'</p> <p>The aim of the preparatory Guidelines is to prepare for Solvency II and not Solvency I.</p> <p>In accordance with Article 14 (6) of the Solvency II Directive undertakings will be requested to conclude their first FLAOR report</p>

			<p>undertakings is generally envisaged for 2015 and we don't believe ORSA should be an exception.</p> <p>6. There are cases where the Guidelines and/or the explanatory text go further than what is required in the relevant Solvency II articles. EIOPA should ensure that this is avoided and also that the content of the Guidelines and the explanatory text are fully consistent with SII. An explicit clarification on the status of the explanatory text would be welcomed.</p> <p>7. We consider that it would be very beneficial if EIOPA requests national supervisors to engage in a dialogue with insurers in their respective markets with an aim to agree on a clear timetable concerning what they concretely expect from undertakings to have in place at different stages during the preparatory stage until 2016.</p> <p>The clarity and certainty that this would create for insurers would be invaluable.</p>	<p>in 2014 and to submit the report to their NCA in accordance with Guideline 10.</p> <p>See Feedback Statement 'Explanatory Text'</p> <p>Agree; see Feedback Statement 'Supervisory Actions and Enforcement Measures'</p>
20.	Insurance Europe	General Comment	<p>Generally we support interim measures on the forward looking assessment of the undertaking's own risks which allow undertakings and national competent authorities to gain practical experience with the upcoming ORSA</p> <p>We see it however rather as a dry run of a full ORSA (on best effort basis) than a phasing-in. Therefore the principle of proportionality and the application on a best effort basis should be clearly stated in the beginning of the guidelines and the statements "should ensure that" in the Guidelines should be replaced with "should ensure that undertakings are making appropriate progress towards the implementation of".</p> <p>The forward looking assessment of the undertaking's own risks should not be designed as a 'compliance exercise' but follow the purpose of the ORSA, i.e. it should be primarily for the benefit of the undertakings and designed</p>	<p>Disagree; see Feedback Statement 'Purpose of the preparatory phase'</p> <p>Agree; it is the undertaking who decides on the measures used in order to appropriately reflect its risk profile</p> <p>It is up to the decision</p>

			<p>to their needs (as stated in the CROF Forum paper on ORSA).</p> <p>Moreover, we would strongly support a clear indication that national competent authorities would be advised to avoid requiring additional specificities at this stage of the implementation process, in order to create a level playing field among European undertakings.</p> <p>In particular, we believe that the following - the comments apply to both individual and group level - should be taken into consideration.</p> <ul style="list-style-type: none"> - The focus should be on the undertakings own assessment and not on the assessment of Solvency II Pillar I elements not yet stabilized. <p>The purpose of the forward looking assessment of the undertaking's own risks during the preparatory phase should be to make it possible for the undertaking to form an own assessment of its risks and not the compliance with a framework not yet in place.</p> <p>There should be no quantitative requirements in Pillar II and in particular in the forward looking assessment of the undertaking's own risks as long as Pillar I is not finalised. This applies in particular to requirements pertaining to Solvency II standard calculations and the forward looking assessment on whether the risk profile of the undertaking deviates from the assumptions underlying the standard formula.</p> <p>Groups should be exempted from quantitative requirements in the preparatory phase, even if Pillar I is finalised. Material elements of group calculations under Pillar I are still in need of clarification. Problems in the previous tests caused that the group level rules were never fully tested; as such enormous costs and potentially misleading conclusions are to be expected. The implementation of Pillar I elements at group level should</p>	<p>of NCA how to comply with these Guidelines; see Feedback Statement 'Enforcement measures and supervisory actions'</p> <p>EIOPA will only request the assessment of the overall solvency needs in 2014; for the other assessments (GL 14-16) EIOPA will provide technical specifications in the course of 2014 and will require undertaking to perform those in 2015.</p> <p>Disagree; the FLAOR on group level is essential for the undertaking and the supervisors to understand better the risk the undertaking is facing and its solvency needs.</p> <p>EIOPA would want to emphasize that only for the assessment of the continuous compliance with regulatory capital needs, if undertakings</p>
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			<p>follow in a next step after Solvency II comes into force.</p> <ul style="list-style-type: none"> - Requiring undertakings to perform the assessment for preparing for the eventuality that the application to use the internal model under Solvency II would be rejected penalizes undertakings in the preparatory phase. Also the standard formula should neither explicit nor implicit be used as a benchmark for internal models. <p>Interim measures should focus on the preparedness of internal models instead of the standard formula for undertakings engaged in the pre-application process.</p> <p>It should be clear that the standard formula has its limitations in showing the individual risk situation e.g. on Cat risk. Therefore the standard formula should neither explicit nor implicit be used as a benchmark for internal models. We understand that when Solvency II will be in place there might be a lack of best practices; however, we believe that a proper pre-application and approval process may sufficiently address this gap and the emergence of internal models' best practices should not be constrained by the standard formula.</p> <p>We further add that after approval the national competent authority can require an estimate of the Solvency Capital Requirement determined in accordance with the Standard Formula (article 112 of the Directive).</p> <ul style="list-style-type: none"> - Full documentation of the record of each ORSA process should be required only when the process is fully implemented under Solvency II Also requirements on the policy for the forward looking assessment of the undertaking's own risks should be reviewed. <p>It is not appropriate to expect that all the provisions in terms of evidence</p>	<p>under pre-application use the internal model, they have to demonstrate that they are preparing for the eventuality that their internal model may not be approved. Please refer to the resolution to comment 7. The aim of this is not to use the standard formula as a benchmark, but to help undertakings to prepare for such an eventuality. This is necessary to ensure a complete preparation for Solvency II for these undertakings, which is the aim of the Preparatory Guidelines. Please note that for the assessment of overall solvency needs more flexibility is given, and, for the assessment of the significance of the deviation of the risk profile from the SCR calculation, undertakings under pre-application should not be required to do this assessment during the preparatory period.</p>
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			<p>and documentation are met in the same way by all undertakings during the preparatory phase.</p> <p>A policy should only include general aspects of the risk assessment and not focus on the technical specifications of each record.</p> <ul style="list-style-type: none"> - Requiring undertakings to submit the supervisory report of the forward looking assessment of the undertaking's own risks within 2 weeks of concluding the assessments is an unrealistic time frame at this stage of the implementation phase. <p>The forward looking assessment of the undertaking's own risks is an area where there is a significant change between the existing regulatory requirements and those to be introduced by Solvency II. As such more flexibility in terms of deadlines should be introduced.</p> <p>We also ask for confirmation that the requirement to perform an assessment of the overall solvency needs "as of 2014" shall be interpreted as the submission in 2015 of an internal report based on year-end 2014 and prospective data.</p> <ul style="list-style-type: none"> - Requiring all undertakings to quantify the impact on the overall solvency needs of using different recognition and valuation basis during the preparatory phase is inconsistent with EIOPA's approach towards small and medium-sized undertakings. <p>By requiring all undertakings to quantify the impact on the overall solvency needs of using different recognition and valuation basis, EIOPA is imposing Solvency II Pillar I calculations to all undertakings. Considering the proportionality principle as well as the supposed flexibility introduced by EIOPA, undertakings should be allowed to use their local recognition</p>	<p>The requirements on the process and the policy are key factors for an undertaking to prepare for Solvency II.</p> <p>EIOPA believes that a timeframe of 2 weeks after a FLAOR has been fully concluded is reasonable and manageable.</p> <p>In accordance with Guideline 18 the first FLAOR needs to be performed (and concluded) in the year 2014. The supervisory report should be submitted in line with Guideline 10.</p> <p>Guideline 11 does not require performing the FLAOR on different valuation basis but gives the undertaking the freedom to perform its FLAOR on a different valuation basis than Solvency II if the undertaking sees this as more appropriate.</p> <p>See Feedback Statement 'Application</p>
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			<p>and valuation basis which are the basis for their regulatory requirements (Solvency I), or any other risk measurement approaches, which, in their view, properly reflect the nature, scale, and complexity of their business.</p> <p>- Groups should be allowed to carry out the assessment for third-country undertakings on the basis of local rules.</p> <p>The requirement on groups to carry out the assessment for third-country undertakings “in the same manner” as for EEA undertakings should not lead to a de-facto implementation of Solvency II rules in addition to local rules to third-country undertakings.</p> <p>Groups should be allowed to carry out the assessment for third-country undertakings on the basis of local rules.</p> <p>- Requiring a joint decision in the College for the decision on the single document covering all the forward looking assessments is inconsistent with Level 1.</p> <p>This decision, in line with Level 1, should be taken by the group supervisor, after consulting the other members of the college.</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 is 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</p>	<p>by third countries’</p> <p>For the pillar I related assessments of the FLAOR, the groups should calculate and make forward looking assessment of their SCR, MCR, and TP consistently with the technical specifications that are to be used for reporting.</p> <p>Agree: Proposition to redraft the guideline 25 concerned to add some clarity.</p> <p>The decision to allow the group to perform a single FLAOR document during the interim period is a temporary decision.</p> <p>The organisation of colleges during the preparatory phase is not the one that will be in place when solvency II is in force.</p> <p>It is case by case. It is also a preparatory phase for the colleges on this issue.</p> <p>Disagree : It would be inconsistent with some local regulations.</p>
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			<p>involved, instead of in several local languages.</p> <ul style="list-style-type: none"> - It is difficult to fully understand how to cater for proportionality and flexibility. <p>Considering that, accordingly with EIOPA, the Guidelines are issued in order to prepare for Solvency II and not its full application, additional flexibility should be introduced. Undertakings should for example be allowed to run the assessment on an one year time horizon completed by a qualitative assessment on a longer term horizon, highlighting multi-year tendencies and developments. Also the "phasing-in" described in the cover note (1.4, 4.3 and 4.6) should be included in the Guidelines.</p> <ul style="list-style-type: none"> - The status of the explanatory text is unclear. <p>The explanatory text, although not subjected to consultation, it is said to provide additional information and examples but it seems to a large extent to go beyond that and contains numerous additional requirements which are granular and prescriptive (e.g. on supervisory reporting), and in some cases not even mirror the current proposed Guidelines.</p> <p>We believe that the explanatory text should either be eliminated or revised and included in the consultation process.</p>	<p>See Feedback Statement 'Principle based approach and proportionality principle'</p> <p>It is up to the undertaking to decide on the appropriate time horizon of its FLAOR, see Guideline 13.</p> <p>See Feedback Statement 'Explanatory Text'</p>
21.	Insurance Ireland	General Comment	<p>Insurance Ireland broadly welcomes the draft Guidelines and their aim of promoting a consistent structure across Europe in advance of the implementation of Solvency II. This consistency is particularly important for insurers operating on a cross border basis.</p> <p>Please confirm that the requirement to perform an assessment of the</p>	<p>In accordance with Guideline 18 the first FLAOR needs to be performed (and concluded) in the year 2014. The supervisory report should be</p>

			<p>overall solvency needs “as of 2014” will be interpreted as the submission in 2015 of an internal report based on 31.12.2014.</p> <p>At the point when the Guidelines are finalised it may still not be clear if Omnibus II will be finalised by year-end. By requiring undertakings to quantify the impact on their overall solvency needs of the risks assessed on a Solvency II basis, EIOPA is imposing Solvency II Pillar I calculations. In the interests of proportionality and flexibility, undertakings should be allowed to use existing Solvency I requirements or other risk measurement approaches which reflect the nature, scale and complexity of their business.</p> <p>Please clarify, for the avoidance of potential confusion, that it is intended that the Guidelines and the Directive will apply on a stand-alone basis and that draft Level 2 and Level 3 guidance which may have been circulated previously are not relevant under the interim regime. It would also be helpful if it could be confirmed that Level 2 and Level 3 guidance finalised during the interim phase would not impact on the interim regime.</p> <p>Some (re)insurance entities may be planning a revised organisational structure with effect from the full implementation of Solvency II to optimise capital efficiency. Local NCAs should have the flexibility to anticipate these changes when applying the guidelines.</p>	<p>submitted in line with Guideline 10.</p> <p>EIOPA will only request the assessment of the overall solvency needs in 2014; for the other assessments (GL 14-16) EIOPA will provide technical specifications in the course of 2014 and will require undertaking to perform those in 2015.</p> <p>Please see Feedback Statement ‘Status of the Solvency II Directive and Implementing Measures’</p> <p>EIOPA supports dialogue between the undertakings and the relevant NCAs; see Feedback Statement ‘Enforcement Measures and Supervisory Action’</p>
22.	International Underwriting Association of London (IUA)	General Comment	<p>We support the introduction of an interim form of the ORSA, pending the full implementation of Solvency II. We believe that it will provide a useful instrument for good management of firms and their risks. However, pending the full implementation of Solvency II, a substantial degree of flexibility should be allowed to NCAs in how the ORSA is implemented and</p>	<p>It is up to the NCAs to decide how to comply with the preparatory Guidelines</p> <p>EIOPA will only request</p>

			<p>to firms by the NCAs in how and when it is prepared and applied internally. The draft guidelines appear to us to be too granular. The requirements should not be prescriptive or highly detailed and, in particular, Pillar I data should not be required, partly because it is currently not available and partly because it would be disproportionate in use of time and resources to attempt to phase it in before full implementation of Solvency II. Moreover, the supporting structure of implementing measures intended for the Solvency II regime does not yet exist, so any interim guidelines can only have any legal force if they remain high level. While proposing a considerable degree of latitude in application, we are not suggesting, however, that the ORSA should not be developed as a genuinely effective instrument in each jurisdiction or that NCAs should allow the development of national variations that will remain once Solvency II is fully implemented. The objective should rather be an independent and phased-in implementation, but in the same direction. We also believe that the ORSA must remain an internal company instrument which is owned by the company, so regulatory requirements as to its form and content should, in any case, never be excessively prescriptive or granular.</p> <p>We also believe that the application to groups needs to be clarified, since different member states will apply different rules and there is no current authority to extend regulatory requirements to branches, subsidiaries and parents outside the EEA.</p>	<p>the assessment of the overall solvency needs in 2014; for the other assessments (GL 14-16) EIOPA will provide technical specifications in the course of 2014 and will require undertaking to perform those in 2015.</p> <p>See Feedback Statement 'Purpose of the preparatory phase' and 'Application by third countries'; the requirement applies to the entity responsible for fulfilling the governance requirements at group level and according to the regulation of the EEA country where the parent undertaking is licenced. There is no problem of inconsistency then. The requirement does not apply to the parent outside the EEA.</p>
23.	Investment & Life Assurance Group Limited (ILAG)	General Comment	ILAG is a trade body representing members from the Life Assurance and Wealth Management industries.	Noted

			ILAG members share and develop their practical experiences and expertise, applying this practitioner knowledge to the development of their businesses, both individually and collectively, for the benefit of members and their customers.	
24.	Lloyd's	General Comment	The Explanatory Text (paper 13/25) is generally useful and welcome but it needs to be made clear that this is "explanatory text" rather than standards which must be complied with, in particular given the text is not to be consulted upon. The Explanatory Text appears to contain numerous additional requirements which are granular and prescriptive. For example, Guideline 8 of the Interim Measures simply states the undertaking "appropriately evidences and documents" each forward looking assessment (i.e. ORSA) including "risks and its outcomes". The Explanatory Text (section 3.18) then sets out a list of additional points with significant detail, e.g. "[must include] Details of any planned relevant management actions, including an explanation and a justification for these actions, and their impact on the assessment". The text is also written as a requirement rather than illustrative.	See Feedback Statement 'Explanatory Text'
25.	MetLife	General Comment	<p>Our key comment is that 1.9 and 1.10 together imply the need to project and stress test capital requirements on a number of different bases and then reconcile the results. We believe that this would place an excessive burden on undertakings prior to Solvency II implementation, particularly undertakings with multiple business lines and / or undertakings with entities located in multiple jurisdictions.</p> <p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA</p>	<p>Guideline 11 does not require performing the FLAOR on different valuation basis but gives the undertaking the freedom to perform its FLAOR on a different valuation basis than Solvency II if the undertaking sees this as more appropriate.</p> <p>For those assessments related to pillar I capital requirements EIOPA will provide technical</p>

			<p>guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.</p>	<p>specifications; proportionality applies and therefore FLAOR should reflect the nature and complexity of the undertaking, its risks and its business</p> <p>FLAOR should enable undertakings to have a Forward looking assessment, meaning to prepare for Solvency II and not for Solvency I</p>
26.	MGM Advantage	General Comment	<p>The Cover Note for the Consultations provided a very clear explanation that the purpose of the Guidelines, if adopted by National Competent Authorities, was to put in place a process for monitoring how insurers were progressing towards the eventual requirement to comply with the final requirements of the Directive. This is made clear in paragraphs 1.5, 4.2 (second bullet point) and 4.6. However the Guidelines themselves do not always make this clear. We would therefore welcome the inclusion within the actual Guidelines of similar language and clarity of purpose as is set out in the Cover Note.</p> <p>This is particularly important around the capital requirements during the glide-path until the final SII requirements are known and then implemented.</p>	See Feedback Statement ‘Purpose of the preparatory phase ‘
27.	Munich Re	General Comment	<ol style="list-style-type: none"> 1. Our comments refer, as requested by EIOPA, to the Guidelines and not to the Explanatory Text. Although the Explanatory Text is not subject to the public consultation we would like to point out that the Explanatory Text contains requirements that we do not share or agree with. 2. In general, we welcome an early preparation for the application of 	The Explanatory Text is not subject of this consultation; see Feedback Statement ‘Explanatory Text’

			<p>Solvency II with regard to the requirements that are not controversial on political level. However, any pre-emption of the Trilogue or Level 2 results in the context of the Guidelines should be avoided.</p> <p>3. Market participants as well as the NCAs should be given sufficient time for preparation and an appropriate implementation of the Guidelines assuring a level playing field. With regard to the finalization of the quantitative requirements envisaged for autumn this year the timeframe for preparation and implementation is very ambitious.</p> <p>4. Specific and detailed technical requirements should be avoided within the Guideline to assure for a principle-based approach.</p> <p>5. With respect to the reporting dates and periods, we would welcome a homogeneous approach. Particularly, the date of first application should be consistent within all Guidelines.</p>	<p>EIOPA will only request the assessment of the overall solvency needs in 2014; for the other assessments (GL 14-16) EIOPA will provide technical specifications in the course of 2014 and will require undertaking to perform those in 2015.</p>
28.	Nordea Life & Pensions	General Comment	<p>Nordea Life & Pensions supports the need for consistency in implementing the forward looking assessment across Groups and in all countries.</p> <p>However, we have a general comment around the timing of the Pillar I-related requirements included in guidelines covering the forward looking assessment. The assessment needs to be carried out from 2014, and for larger companies will include the requirement to carry out a projection of solvency needs on the Solvency II basis and compare own risk profile to assumptions underlying the Solvency II SCR calculation. Although this was one of the considerations of the consultation paper, and the assessment made that this was worthwhile in order for insurance companies to show their preparedness, there is still uncertainty around the final measures. This has the potential to lead to additional costs for companies.</p> <p>In the event of any delay to agreement of the final Pillar I measures and/or Solvency II implementation, there appears to be no provision in the guidelines for a postponement of the Pillar I-related requirements for the assessment itself. We understand that the assessment will still need to be carried out on the Solvency II basis from 2014.</p>	<p>EIOPA will only request the assessment of the overall solvency needs in 2014; for the other assessments (GL 14-16) EIOPA will provide technical specifications in the course of 2014 and will require undertaking to perform those in 2015.</p>

			(We acknowledge that EIOPA will review the deadlines for the submission of the supervisory report on the following looking assessment at the end of 2013)	
29.	Polish Chamber of Insurance	General Comment	<p>There are fundamental concerns regarding the implementing of the regulatory framework which is neither entirely defined on an European level nor implemented into local national legislation. The pillar one which is a basis for the regulatory framework is still not defined and the core conceptual piece, economic evaluation of the balance sheet, is still under discussion as the adjustment mechanisms are still in the phase of testing. The quantitative part of the framework (pillar one) is the base for two other pillars. Without deciding upon the final shape of pillar one two remaining pillars could be hardly implemented, especially in the context of calculation solvency position in ORSA and building the reporting tools for the supervisory reporting. Forcing insurers to comply with regulations which are not legally binding and may be significantly changed may lead to huge investments both in money terms and human resources which in the end could be a waste of money.</p> <p>Without deciding upon the final shape of the solvency framework the phasing in should be limited to implementing soft elements, like corporate governance, limited reporting similar to QIS exercises if necessary. All the Stakeholders should seriously consider the costs and organizational/regulatory risks which would be certainly associated with partial implementation as in the end it will jeopardize confidence for the insurance sector creating systemic risk and transferring additional costs for consumers.</p> <p>There should be an alternative proposal in case Omnibus II is not voted at the latest in October 2013.</p> <p>ORSA should not be implemented before the final version of Pillar I is adopted.</p>	<p>EIOPA will only request the assessment of the overall solvency needs in 2014; for the other assessments (GL 14-16) and for submission of information purposes EIOPA will provide technical specifications in the course of 2014.</p> <p>Please see Feedback Statement 'Purpose of the preparatory phase '</p> <p>Agree; see Feedback Statement 'Status of Solvency II Directive and Implementing Measures'</p> <p>Disagree; the preparatory Guidelines should be a preparation exercise in quantitative aspects as well.</p>

			<p>Qualitative aspects (as compliance and risk management) may be introduced but definitely no quantitative aspects should be taken into account as long as these requirements are not finalized.</p> <p>Any 3 year projection if it has to be performed seriously (which means not only adding some percentage points of increase per line of business but taking into account competitors attitude for example to risks and new products and collecting info from different departments of the company not only from the actuaries but from marketing, strategy, investments ...) is a very time consuming exercise. Without specific requirements regarding Pillar I it seems that it is a useless exercise.</p>	<p>Noted; calculations can be done on best effort basis</p>
30.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	General Comment	<p>Timeline for the Guidelines Implementation</p> <p>The time table for guidelines implementation should to greater degree incorporate proportionality principle and should not force implicitly (indirectly) earlier, de facto implementation of Solvency II requirements like calculation of Pillar II requirements at excessively detailed level generating costs that are not justified by the purpose of guidelines</p> <p>Requirements of "step-by-step" implementation should not be too burdensome and cannot generate costs not proportionate to the aim of the regulations.</p> <p>Additionally, as we understand, EIOPA intends to publish the guidelines in the areas covered by this consultation in the autumn of this year. According to Article 16(3) of the EIOPA Regulation NCAs 'shall make every effort to comply with the guidelines, This means in practice, that NCA and insurance undertakings will have limited time of two months, following issuance of the guidelines (the date of issuance of the guidelines is the date on which the guidelines are published in each of the official EU languages) to confirm whether they comply or intend to comply with the guidelines. It is clear that such confirmation should not be automatic but result from a solid analysis of the proposed requirements vis a vis existing capacities (people, IT, infrastructure, budgets) both in NCA and insurance undertakings. And even if in some cases the answer might be positively</p>	<p>Please see Feedback Statement 'General comments'</p> <p>EIOPA believes that the costs for implementing the preparatory Guidelines are not in addition of those costs for the implementation of the final Solvency II requirements.</p> <p>See Feedback Statement 'Comply-or-explain mechanism'; the reply is by NCAs only (not requested by undertakings)</p>

			<p>confirming readiness to comply in other cases, requiring technical preparation, budget, project, and people, this will not be possible to implement on proposed date. Hence, taking these arguments into account, we have doubt if it is possible for insurance undertakings to prepare for implement the guidelines from 1 January 2014. In our opinion it would be advisable to spend 2014 for local consultations (i.e. based on intensive, technical dialogue between local regulators and local insurance industry) to better prepare for the implementation of the guidelines. Then, it is more realistic that the guidelines could go live starting January 2015.</p> <p>FLAOR application</p> <p>According to current timeline of FLAOR first reporting (reporting at the beginning of 2015 covering 2014.01.01 – 2014.12.31 period) the undertakings will be required to present that the FLAOR results are taken into account in terms of strategic planning, risk management and product development processes. Moreover the undertakings are going to be required to prove that the administrative, management or supervisory body incorporates FLAOR in its decision making process. Implementation of FLAOR in 2014 may result in undesired consequences of confusion and dual approaches used in the same time where the undertaking will base its business decision using FLAOR (Solvency II regime) while the legally required reporting will be still based on Solvency I regime. Moreover part of the market (undertakings) which will not be in the threshold of the FLAOR implementation will have an competitive advantage over those undertakings which will be in scope of FLAOR implementation (e.g. the decision regarding dividend payment for those undertakings, which will be out-of-scope of FLAOR in 2014, will be based on Solvency I regime rather than Solvency II regime).</p> <p>Basis for Guidelines Implementation</p> <p>We welcome the view, that EIOPA recognises that in a significant number</p>	<p>See Feedback Statement 'Purpose of the preparatory phase'</p> <p>In accordance with Guideline 18 the first FLAOR needs to be performed (and concluded) in the year 2014. The supervisory report should be submitted in line with Guideline 10.</p> <p>It is the decision of the undertaking what valuation basis it deems to be appropriate for its FLAOR.</p> <p>The threshold does not apply in general for the FLAOR exercise and especially not for the assessment of the overall solvency needs.</p> <p>See Feedback Statement 'Supervisory Actions / enforcement measures'</p>
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			<p>of member states, the NCA does not have the legal competence to enact the relevant financial legislation and is dependent on the powers bestowed upon it. Additionally, special attention should be paid by NCAs to determine how to comply with EIOPA guidelines by incorporating them into their regulatory or supervisory framework in an appropriate manner, especially if they are less stringent or less precise than local legally binding regulations (e.g. in case of outsourcing; fit & proper requirements). Moreover we support the EIOPA view that the guidelines do not require NCAs to take supervisory action, and in our opinion – it should be clearly stated that no such regulatory actions should be taken, as a result of a failure by undertakings to comply with Solvency II requirements, including the Pillar I, II and/or III requirements.</p> <p>FLAOR methodology</p> <p>FLAOR is required to be based on Solvency II techniques which are currently not entirely defined (especially in the area of long term obligations). On the other hand FLAOR will be required to be used already in 2014 which means that the implementation must take place till the end of 2013. In our opinion the undertakings will have extremely limited time period of 2-3 months for proper implementation of FLAOR after the announcement of Omnibus II which is obviously regarded as too short period.</p> <p>Purpose of FLAOR</p> <p>As far as the concept of FLAOR is concerned there should be a clear differentiation between SCR reporting and FLAOR reporting. We believe that the local NCA should rather focus on the inclusion of FLAOR processes in undertaking's internal process and strategic planning than on FLAOR quantitative results. Moreover there is a risk that the local NCA will use the quantitative results to indirectly influence the undertaking for example through the regulation/recommendation regarding dividend payment or</p>	<p>EIOPA will only request the assessment of the overall solvency needs in 2014; for the other assessments (GL 14-16) EIOPA will provide technical specifications in the course of 2014 and will require undertaking to perform those in 2015.</p> <p>See Feedback Statement 'Supervisory Action / Enforcement measures'; there are no 'leading' quantitative reportings; reporting and FLAOR do not have the same intention.</p> <p>All undertakings opting for the standard formula must go through the process of justifying that the standard formula reflects the risk profile. FLAOR should</p>
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			<p>capital add-on. Equivalent criteria are already used in other sectors like banks by regulators to define possibility of dividend payment and if FLAOR is implemented pre-maturely and too early it can be treated as such criterion even without formal endorsement of Solvency II. Also, in that way in our opinion in such case the undertaking would be required to perform a double reporting: the results of SCR (based on Standard Formula or Internal Model) and the results of FLAOR. What is questionable for us is which part of the quantitative reporting (SCR or FLAOR) will be perceived by NCA as leading.</p> <p>Necessity of Internal Model</p> <p>The current FLAOR requirements are more in line with the concept of Internal Model than with the concept of Standard Formula calculation. In our opinion the undertakings which have decided to report SCR on the basis of Standard Formula are not going to avoid the application of some sort of Internal Model as it will be indirectly required through FLAOR. In other words the simplifications applied through Pillar I (Standard Formula calculation) will result in more extensive requirements of Pillar II (FLAOR) which is not EIOPA declared intention but the wording suggests otherwise. We believe that the Standard Formula was introduced as a simplified, unified approach which is consistent for all undertakings. The same approach in our opinion should be applied to FLAOR – the undertakings shouldn't be required to introduce complex, undertaking-specific semi Internal Models to fulfil FLAOR requirements. Additionally in our opinion the analysis of deviation of undertaking's risk profile from risk profile applied through Standard Formula or Internal Model should be excluded from the FLAOR requirements.</p> <p>FLAOR Disclosure</p> <p>According to current FLAOR guidelines it is not clear whether FLAOR quantitative results will be disclosed. In our opinion in case of the requirement of FLAOR disclosure there is a risk that the FLAOR results will</p>	<p>reflect the real risks profile and the real overall solvency needs of the undertaking regardless of the final outcome of pillar I. FLAOR should be used as a steering measure for the undertaking itself and not as a pure reporting exercise. It is the undertaking who decides what models, calculations; stress test reflects its risk profile the most appropriate.</p> <p>There is no disclosure of FLAOR results or later of ORSA results. The disclosure requirements on the ORSA are just for general explanations about the process.</p> <p>In accordance with Guideline 18 the first FLAOR needs to be performed (and concluded) by year end 2014. The supervisory report should be then submitted in line with Guideline 10.</p>
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			<p>bring additional confusion while confronted with information reported under other frameworks such as local GAAP and IFRS. In other words we believe that FLAOR quantitative results shouldn't be treated as additional reporting package which is publicly disclosed as the public disclosure will in fact make the FLAOR quantitative results official. This would be not in line with FLAOR objective.</p> <p>FLAOR reporting timeline</p> <p>Based on current timing proposal of FLAOR reporting the FLAOR results (Pillar II) are going to be reported together with SCR and other required data (Pillar III). It means that FLAOR process will take place after the closing of financial year (current deadline of FLAOR reporting is 28th of February 2015). According to FLAOR concept the undertaking should demonstrate that FLAOR process is incorporated in strategic planning. Based on our experience regarding standard undertaking's processes timeline the strategic planning (preparation of midterm plans, budgeting etc.) usually takes place in the middle of the year (between June and October) hence the FLAOR reporting timeline should be more flexible – in our opinion reporting deadlines must be consistent with the strategic planning process timeline.</p> <p>Annual Progress report</p> <p>In our opinion the annual progress report prepared by local NCA should not be supplemented by any kind of comply or explain procedure (e.g. local peer review report etc.). Such report would require the analysis of compliance of each undertaking with the interim measures requirements. We believe that the compliance should be tested on the basis of final requirements after the official introduction of Solvency II.</p>	<p>It is the undertaking itself who decides when to perform FLAOR for the year 2014 and following. Submission of the supervisory report should be in line with the above.</p> <p>Only NCAs report to EIOPA for the comply-explain mechanism and the progress report, see Feedback Statement 'Progress report'</p>
31.	ROAM-	General		See Feedback

	Réunion des Organismes d'assurance mutuelle	Comment	<p>(1) Nous comprenons que l'objet de ce projet de recommandation est de préparer le marché de l'assurance à l'entrée en vigueur de solvabilité II , notamment sur ses aspects ORSA, par des discussions entre parties prenantes (entreprises d'assurance et autorité de contrôle) sur le « Forward looking assessment of the undertaking's own risk » (appelé FLUOR par la suite).</p> <p>En remarque liminaire, il semble qu'une telle préparation n'a pas nécessairement à passer par un cadre réglementaire contraignant : ces discussions peuvent être menées par des concertations de place, permettant aux entreprises et aux autorités de contrôle de mieux préciser le contours des futurs exigences ; dans le cadre français qui est le notre, de telles discussions n'ont pas encore été ouvertes.</p> <p>(2) Le FLUOR est une des composantes de l'ORSA. Le projet de recommandation renvoie à la quasi totalité des aspects de l'ORSA, notamment les interactions que celui-ci a avec le pilier I et la formule standard.</p> <p>La mise en oeuvre d'un tel exercice apparaît prématurée pour plusieurs raisons majeures :</p> <ul style="list-style-type: none"> - l'ORSA ou le FLUOR sont à la confluence des trois piliers de solvabilité II, et leur mise en place constitue un aboutissement du processus de mise en place de la réforme ; ainsi si un travail préparatoire est indispensable à cette mise en place, il doit s'inscrire dans un calendrier cohérent avec la mise en place de l'ensembles des trois piliers ; - les références multiples à la formule standard et à ces hypothèses alors même que les aspects quantitatifs de la réforme ne sont pas stabilisés ne permettent pas la mise en oeuvre de cet exercice ; - la notion d'AMSB, qui doit intervenir dans le processus, n'est pas encore précisée dans les réglementations nationales, et une fois celle-ci précisée, il faudra laisser un délai d'adaptation. 	<p>Statement "Purpose of the Preparatory phase" and "supervisory action and enforcement measures".</p> <p>See Feedback Statement "Assessment of the continuous compliance" and "Assessment of the significance of the deviation".</p> <p>This will have to be addressed at the national level.</p>
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			<p>La mise en œuvre dès le 1er janvier 2014 est donc tout à fait prématurée.</p> <p>(3) En outre, le projet solvabilité II est générateur de coûts importants pour les entreprises. La mise en place par anticipation de fragments de réglementations sans visibilité à la fois sur le calendrier et sur le contenu intégral de la réforme sera sans aucun doute générateur de coûts supplémentaires d'ajustement pour les entreprises.</p> <p>(4) Le processus juridique utilisé pour cette préparation n'assure pas l'application homogène d'une même réglementation dans l'ensemble de l'Union Européenne, contrairement au souci d'assurer un même « level playing field » au sein de l'Union.</p> <p>En effet, ces recommandations ne s'adressent pas à des états membres , mais à des autorités nationales compétentes n'ayant pas toutes les mêmes pouvoirs réglementaires, ce qui ne permet pas d'assurer la mise en place de ce type de recommandation dans l'ensemble des états membres.</p> <p>(5) Si le caractère transversal de l'ORSA ou du FLUOR plaide pour une mise en place plus en aval par rapport aux autres aspects de la réglementation, il doit également être gardé à l'esprit que l'implication demandée de l'AMSB dans ce processus doit être accompagnée et les exigences qui y sont relatives doivent être progressives.</p> <p>(6) Si la complexité de mise en place de l'ORSA ou du FLUOR est élevée au niveau « solo », les problèmes posés au niveau groupe sont encore supérieurs : périmètre de la notion de groupe, traitement des filiales étrangères, etc... Il est essentiel que sur ces aspects, les entreprises aient une faculté, et non une obligation, d'effectuer cet exercice au niveau groupe. Un tel régime facultatif permettrait tant aux entreprises qu'aux</p>	<p>EIOPA does not believe that the Preparatory Guidelines create additional costs to those cost that undertakings will have anyway to implement Solvency II.</p> <p>Noted.</p> <p>Disagree. The AMSB has to prepare for Solvency II as well.</p> <p>Noted.</p>
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			<p>autorités de contrôle d'accroître leur appréhension sur un domaine dont le niveau de maturité paraît encore très insuffisant pour faire l'objet d'exigence réglementaire.</p> <p>(7) Pour assurer une bonne application du principe de proportionnalité, nous demandons à AEAPP EIOPA de préciser les seuils d'application de ces recommandations afin de ne pas laisser la possibilité aux autorités nationales d'aller au-delà de ce seuil, permettant en vertu du principe de proportionnalité aux petites et moyennes entreprises d'avoir un délai plus important pour la mise en œuvre de l'ORSA, et d'assurer le fait que deux entreprises de même taille ne soient pas traitées différemment dans deux pays différents.</p>	See Feedback Statement "Thresholds".
32.	RSA Insurance Group	General Comment	<p>A forward looking assessment of own risks (based on ORSA principles) is an essential component of an effective risk and capital management system and we are supportive of EIOPA's proposals to promote the development of such assessments ahead of the formal implementation of Solvency II.</p> <p>Our concern with some of these guidelines is that they seek to use the forward looking assessment as a means of providing information to regulators on an undertaking's level of preparedness for Solvency II and of introducing Pillar 1 requirements ahead of the formal implementation date of Solvency II.</p> <p>Undertakings must have the option of preparing their assessment on the basis of the capital requirements and valuation rules that are actually in force. To require otherwise will undermine the value of the assessment as a tool in managing the business.</p> <p>We will of course be taking actions to ensure that we comply with all Solvency II rules from the implementation date. The guidelines should not have the effect of requiring compliance with any Pillar 1 requirements</p>	<p>See Feedback Statement 'Supervisory Action / enforcement measures'</p> <p>It is the decision of the undertaking what valuation basis it deems to be appropriate for its FLAOR; see Guideline 11.</p> <p>See Feedback Statement 'Purpose of</p>

			<p>ahead of the actual implementation date of Solvency II.</p> <p>Our comments are on the basis that the guidelines are being put in place as preparation for the implementation of Solvency II (as stated in paragraph 1.6) rather than actual implementation and that what is required is for undertakings “to progress in their preparedness for Solvency II over time during the course of the preparatory phase” (as stated in paragraph 4.3 of the Cover note for the Consultation on Guidelines) rather than to achieve full compliance ahead of the implementation date.</p>	the preparatory phase’
33.	The Bermuda Monetary Authority (BMA)	General Comment	<p>The BMA is an integrated regulator and supervisor of financial institutions that includes (re)insurers of varying size and levels of complexity conducting a wide range of business activities and utilising diverse business models. The Bermuda Monetary Authority (BMA or Authority) appreciates the opportunity to comment on the Consultation Paper on the Proposal for Guidelines on Forward Looking assessment of the undertaking’s own risks (CP). The Authority appreciates the need for a formal process and reporting framework which provides a more transparent view of the underlying risks to which (re)insurers are exposed. For the last two years, through its Commercial Insurers Solvency Self Assessment (CISSA) and Groups Solvency Self Assessment (GSSA) regimes the BMA has required a number of its larger commercial (re)insurers and insurance groups to submit reports to the Authority which are broadly consistent with the Supervisory reports described in the CP. The Authority has found these reports to provide invaluable additional insight to the entities to which they relate. The Authority welcomes the opportunity to seek, where appropriate, further convergence between its own CISSA and GSSA processes and the forward looking assessment of the undertaking’s own risks regime described in this CP.</p>	Noted
34.	ACA	Introduction General Comment	<p>It must be made clear that applicability of ORSA as of 01.01.2014 is on a “best effort” basis and on the “local group” level only. The guidelines are a PHASING-IN towards Solvency 2 procedure and only a phasing-in, besides of the existing Solvency 1 regime. The strategic decision part of ORSA is not possible during the phasing-in phase.</p>	See Feedback Statement ‘Purpose of the preparatory phase’
35.	ASSOCIATION OF BERMUDA	Introduction General	<p>1 ABIR fully understands why EIOPA considers that European firms and groups need now to undertake active preparations for the Solvency II</p>	Noted

	INSURERS AND REINSURERS (ABIR)	Comment	<p>regime. It is unlikely to come into force until 2016, but its success requires an active preparation process and for that process to be managed in a reasonably consistent way across Europe.</p> <p>2 On the other hand care needs to be taken in the application of any interim regime to ensure that it is not unduly burdensome. It should take account of the fact that the level 1 text is not fully settled. The level 2 rules and much of the level 3 and 3.5 material is yet to be settled and published.</p> <p>3. In particular the full details of the equivalence and interim equivalence regimes is yet to be settled. That said, so far as Bermuda is concerned, the preparatory work of EIOPA strongly suggests that Bermuda will be recognised as equivalent.</p> <p>4. The Solvency II regime may ultimately have some degree of extra-territorial effect, depending on which non European regimes are recognised as equivalent. It is wholly inappropriate for that extra-territoriality to be applied on an interim basis, especially in jurisdictions such as Bermuda which are likely to achieve recognition as equivalent. Only European firms should be subjected, directly or indirectly, to requirements at this stage which require any degree of adaptation to the Solvency II regime.</p> <p>5. The preparations which European firms and groups may be required to make for Solvency II require them to provide information concerning non European operations. At this interim stage it is disproportionate to do anything other than accept information by reference to relevant non EEA rules and in such format as non EEA firms are able to generate from their existing systems. This should be clearly recognised in the EIOPA guidelines. Otherwise non EEA firms may be subject to a patchwork of different requirements depending on how each national supervisor chooses to apply EIOPA's interim guidelines.</p> <p>ABIR is of the opinion that EIOPA should be consistent in its approach across all of the Guidelines and allow groups to use the local group statutory requirements in order to avoid a burdensome approach. We understand why EIOPA may be hesitant to preempt the decision of the</p>	<p>See Feedback Statement 'Status of the Solvency II Directive and the Implementing Measures'</p> <p>See Feedback Statement 'Application by Third Countries'</p> <p>See Feedback Statement 'Application by Third Countries', but refer as well to Guideline 19.</p> <p>It is the decision of the EEA undertaking / the EEA group what valuation basis it deems appropriate for its FLAOR; see Guideline 11.</p>
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			<p>Commission relative to equivalence but believe there is an opportunity to recognize and acknowledge those jurisdictions that have already been approved by the Commission for equivalent assessment and in this regard, have already undertaken a detailed assessment by EIOPA. However, since EIOPA considered the option of the assumption of equivalence for third countries we would propose that those countries already approved by the Commission for assessment of equivalence and already undertaken an EIOPA assessment be granted “conditional equivalence” for the purposes of the guidelines given they are preparatory in nature and not for the full application of Solvency II.</p> <p>We would respectfully request at a minimum that General Guidelines be issued relative to a proposed approach that recognizes and acknowledges third country group supervisors and in particular those third country group supervisors that have already been approved by the Commission for equivalence assessment. Without a common approach, national competent authorities will be left to decide how they will apply the guidelines relative to third country groups and the inconsistencies will prove both burdensome and inefficient.</p>	
36.	MGM Advantage	Introduction General Comment	<p>We are also concerned about the potential plethora of capital measures that could be required: current Peak 1 and Peak 2 under the Current Directive, the current ICA regime, the variety of potential SCR assessments under SII and finally the ORSA. If it was clear that the ORSA could be stand-alone and using economic capital, and did not need to reflect potential different outcomes on the regulatory capital, that would be beneficial in planning.</p> <p>Some products appear profitable on one basis but not on another, which makes planning and product development very difficult.</p>	It is the decision of the undertaking what valuation basis it deems to be appropriate for its FLAOR; see Guideline 11.
38.	ROAM- Réunion des Organismes	1.1	La mise en œuvre de l’ORSA est conditionnée par un accord politique sur Omnibus II et plus particulièrement sur la formule standard, principale base de comparaison et d’analyse d’ORSA. Les exigences de l’ORSA dans	EIOPA will only request the assessment of the overall solvency needs

	d'assurance mutuelle		cette phase préparatoire sur les aspects quantitatifs doivent tenir compte de cette situation.	in 2014; for the other assessments (GL 14-16) EIOPA will provide technical specifications in the course of 2014 and will require undertaking to perform those in 2015.
39.	CRO Forum and CFO Forum	1.2	EIOPA states that the Guidelines "are based on" Article 41, 45 and Article 246 of Solvency 2. We feel the Guidelines should seek to achieve the intended outcome of Article 41, 45 and Article 246 of Solvency 2 within the current regime rather than be based on them. We would therefore suggest to change the wording to "These Guidelines refer to..."	Disagree; Implementing Measures, L3 and preparatory Guidelines need to be based upon requirements coming from the Solvency II Directive.
40.	Insurance Europe	1.2	We do not support enforcing Solvency II Pillar I calculations at this stage	The Solvency II Directive is already in force.
41.	ROAM- Réunion des Organismes d'assurance mutuelle	1.3	Nous comprenons que selon EIOPA, ce qui doit débiter au cours de l'année 2014 est seulement un «dialogue». Son objectif est de permettre la définition des lignes directrices et des pratiques transversales et communes à émerger sur le marché. Ainsi en 2014 pourraient être mis en place, au sein de chaque état membre, des groupes de travail de place afin d'établir un dialogue et une réflexion sur ce thème.	Partially disagree; in addition to your comment the assessment of the overall solvency needs should be conducted and reported to the supervisor starting in 2014.
42.	CRO Forum and CFO Forum	1.4	We agree with the statement that the Guidelines should be viewed as preparatory work for Solvency II with regard to proper management of undertakings. We would urge EIOPA to consider the impact, in all aspects of these CPs, of any requirement to calculate regulatory basis data in the absence of clarity around the final definition of valuation rules and would like to further emphasize, as previously noted in our Cover Note, that we do not support enforcement of Solvency II Pillar I calculations at this stage.	See Feedback Statement 'Purpose of the preparatory phase' and 'Enforcement measures / supervisory actions'

43.	Insurance Europe	1.4	We do not support enforcing Solvency II Pillar I calculations at this stage.	See comment 42
48.	CRO Forum and CFO Forum	1.6	We are very supportive of a phased approach to introducing these requirements and encourage regulators to employ flexibility in applying these Guidelines.	See Feedback Statement 'Purpose of the preparatory phase' and new wording
49.	Deloitte Touche Tohmatsu	1.6	<p>Comment:</p> <p>The Guidelines have been defined as a preparatory work for Solvency II, requiring NCAs to ensure their implementation within the national regulatory framework. In the Cover Note, it is also taken into account that "NCA could not have the legal competence to enact the relevant financial legislation and is dependent on the power bestowed upon it.").The wording « should put in place » stated in this paragraph could be too prescriptive in some case.</p> <p>Suggestion:</p> <p>We suggest to reword the sentence in « NCAs should recommend to follow this guidelines to prepare for SII »</p>	See comment 48
50.	Insurance Europe	1.6	We agree on the objective of these guidelines easing the preparation of Solvency II. This objective should be included within the guidelines.	See comment 48
52.	MetLife	1.6	The intention of the Interim Guidelines is to encourage demonstrable progress during 2014 and 2015 toward the capability of full compliance as of the effective date of Solvency II – assumed to be 01/01/2016. As such, NCAs should expect to see more complete and higher quality output over time.	See comment 48
53.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.6	Please refer to General Comments section (Timeline for the Guidelines Implementation).	See comment 48
54.	ROAM-	1.6	Nous comprenons que ce qui doit être mis en place par les autorités	See comment 48

	Réunion des Organismes d'assurance mutuelle		nationales compétentes au cours de 2014 est seulement un dialogue, afin de définir les lignes directrices et pratiques sur ORSA, afin que les entreprises puissent définir les schémas d'élaboration de l'ORSA. Par conséquent, aucun rapport ORSA ne doit être attendu en 2014 par les autorités nationales.	
56.	ASSURALIA	1.7	It is not clear what should be mentioned in the progress report to the NCA's. Is it EIOPA's intention for undertakings to provide additional information to the NCA's in order for them to specify the content of the progress report?	The progress report is only a measure of communication between NCAs and EIOPA, in which industry is not directly involved; see Feedback Statement 'Progress Report'.
57.	Deloitte Touche Tohmatsu	1.7	<p>Comment:</p> <p>As for the other consultation papers issued, EIOPA requests to NCA to send a progress report to EIOPA yearly. In order to ensure a consistent and convergent supervision across Europe, taking also into account the group perspective, it could be beneficial to define a minimum content and/or a common template NCAs should agree on.</p> <p>We believe yearly reports by February may not be frequent enough if the goal is a "checkpoint" to assess progress on the application of the guidelines. This is in particular true if Solvency II is implemented in 2016 (only one "checkpoint" in 2015 will be considered) or 2017 (only two "checkpoints"). We suggest EIOPA request a summary report by July of each year, in order to better assess the progress of harmonization and discuss any issue with NCAs (such as varying pace of implementation, divergence in the application of the guidelines, etc.).</p>	See comment 56
58.	Powszechny Zakład Ubezpieczeń Spółka	1.7	In our opinion the annual progress report prepared by local NCA should not be supplemented by any kind of comply or explain procedure (e.g. local peer review report etc.). Such report would require the analysis of compliance of each undertaking with the interim measures requirements.	See comment 56

	Akcyjna		We believe that the compliance should be tested on the basis of final requirements after the official introduction of Solvency II.	
60.	CRO Forum and CFO Forum	1.8	As noted in our Cover Note, the expectation should be on NCAs to take steps to require that undertakings take a forward looking view. We would suggest that the sentence read "In the preparatory phase national competent authorities are expected to ensure that insurance and reinsurance undertakings take steps towards performing a forward looking view on the risks to which they are exposed..."	Disagree; EIOPA expects an active performance of FLAOR from 2014 onwards starting with the assessment of overall solvency needs
62.	Insurance Europe	1.8	As noted in our cover letter, the expectation should be on NCAs to take steps to require that undertakings take a forward looking view. We would suggest that the sentence is redrafted to state that national competent authorities should ensure that undertakings take preparatory steps towards performing a forward looking view on the risks to which are exposed.	See comment 60
64.	MetLife	1.8	We agree that it makes sense for undertakings to undertake a forward looking view on the risks to which they are exposed and that early preparation is needed given the time it takes to build a projection system.	Noted
65.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.8	With reference to point 1.11, 1.19, 1.28, 1.29 and 1.44. According to point 1.8 the NCAs are expected to make sure that the undertakings "take a forward looking view on the risks to which they are exposed". Moreover, according to point 1.11 the NCAs "are not expected to ensure that the undertakings which are in the pre-application process perform an assessment of the significance of their risk profile deviating from the assumptions underlying the SCR calculation in their" FLAOR. Additionally according to point 1.19 the "undertakings applying for the approval of an internal model are expected to use the model in assessment of their overall solvency needs". In our opinion the combination of the meaning of point 1.8, 1.11, 1.19, 1.28, 1.29 and 1.44 leads to conclusion that for the purpose of FLAOR every undertaking will be expected to create some sort of Internal Model. Even in case the undertaking will decide to calculate and report the SCR on the basis of Standard Formula, the FLAOR requirements (assessment of own risk profile) will result in fact in the application of Internal Model –	Disagree; FLAOR does not request undertakings to develop on IM; EIOPA expects only different performance of assessments dependend if the undertaing is in a

			<p>otherwise the undertaking will have to prove that its own risk profile is consistent in every detail (also parameterisation) with Standard Formula.</p> <p>To sum it up we believe that the Standard Formula was introduced as a simplified, unified approach which is consistent for all undertakings. The same approach in our opinion should be applied to FLAOR – the undertakings shouldn't be required to introduce complex, undertaking-specific semi Internal Models to fulfil FLAOR requirements. Additionally in our opinion the analysis of deviation of undertaking's risk profile from risk profile applied through Standard Formula or Internal Model should be excluded from the FLAOR requirements.</p>	<p>pre-application process or not.</p> <p>Agree, and this is not neither the understanding of FLAOR itself nor of 1.8</p>
66.	ROAM- Réunion des Organismes d'assurance mutuelle	1.8	<p>La vision prospective des risques telle que définie dans l'article 45 ne pourra être implémentée que lorsque qu'un accord sur Omnibus II sera trouvé. Nous sommes en faveur de l'ouverture d'un dialogue avec les autorités nationales compétentes afin de préparer l'implémentation de cette évaluation pour être prêt pour la date d'application de Solvabilité 2.</p>	<p>Agree for those assessments close to pillar I; disagree for the assessment of overall solvency needs</p>
68.	AMICE	1.9	<p>AMICE members disagree with the statement that the ORSA assessment can be conducted irrespective of which regulatory requirements are applicable. Further guidance is also needed on whether EIOPA expects undertakings to conduct a forward looking assessment of some risk indicators (for example equity volatility) or a forward looking assessment of all risks aggregated which will be very costly for small and medium size companies. Additionally, we believe that the ORSA 's report should be strictly linked to the first submission of information to the supervisory authorities. We would therefore suggest that NSAs focus on the development of guidelines so that companies can take the necessary steps for the ORSA implementation.</p>	<p>EIOPA will provide technical specifications for the assessments which are linked to pillar I</p> <p>It is up to the undertaking itself to decide what risks should be reflected in its FLAOR</p>
69.	Aon	1.9	<p>Further clarity on the language is needed - does this mean that a full forward looking solvency assessment needs to be done in 2014 or that 'appropriate steps need to be taken' to build a process to do the assessment as per reference 1.23?</p>	<p>A full assessment is expected with regard to the overall solvency needs</p>

70.	Association of Financial Mutuals	1.9	<p>It is not clear from the text to which firms these new requirements will apply. Will it be to firms that are directive under the old « Solvency I » regime or would it be to firms that are directive under the Solvency II regime? There are firms that will be directive under the old regime who will become non-directive under Solvency II and firms that are currently non-directive who will become directive under Solvency II.</p> <p>We have seen reports that this set of guidelines do not apply to firms that are non-threshold for the reporting CP. We believe this is incorrect as a general rule and only a limited number of guidelines will not apply to « non-threshold » firms.</p> <p>Clarity here is very important in helping firms and NCAs prepare.</p>	<p>The preparatory Guidelines apply to those undertakings within the scope of Solvency II</p> <p>The threshold does not apply to the assessment of the overall solvency needs; see new wording of Guideline 3</p>
71.	CNA Insurance	1.9	<p>CICL agrees with the notion that a forward looking assessment of an undertaking's own risks can be undertaken irrespective of what regulatory quantitative requirements are applicable; however, we note that the guidelines (Guideline 14, 15 and 16) require the assessment be performed as if the quantitative requirements apply, thus requiring the completion of a full Solvency II balance sheet. Firms will also be required to produce a solvency capital requirement (SCR) and under the proposals firms would have to use the standard formula which has not been finalised or they may also be undergoing an internal model approval process while simultaneously meeting these requirements. Please also see the comment related to paragraph 1.10 below.</p>	<p>Guideline 14 – 16 only apply once EIOPA has provided technical specifications which is foreseen for 2015; only the assessment of overall solvency needs is irrespective of those technical specifications</p>
72.	CRO Forum and CFO Forum	1.9	<p>The current wording of this paragraph implies that the entirety of all assessments required by Article 45 can be undertaken irrespective of the applicable regulatory quantitative requirements. This is not the case, since Article 45(1)(b) and Article 45(1)(c) make specific reference to Solvency II Pillar 1 requirements. The wording of this paragraph should be tightened to:</p> <p>“Since [the assessment of overall solvency needs required by Article 45(1)(a)] can be undertaken irrespective of what regulatory quantitative requirements are applicable, national competent authorities are expected to ensure that undertakings take steps towards performing [this] assessment of their overall solvency needs as of 2014.” [EIOPA-CP-13-009 (paragraph 1.9)]</p>	<p>1.9 applies for the overall solvency needs only</p> <p>EIOPA expects</p>

			Where an undertaking would have fully implemented its internal forward looking assessment in 2014, we understand this guideline to require the eventual submission of a report no earlier than in Q1 2015 based on year-end 2014 and prospective data. We would be strongly opposed to any interpretation of this rule that requires undertakings to submit in 2014 forward looking assessments based on 2013 actual and prospective data as we feel this would be far too premature.	undertakings to finalise their first FLAOR during 2014; it is not required that the FLAOR is based on year-end figures; it is the undertaking who decides on which data the FLAOR will be based during its performance in 2014; in addition see Feedback Statement
73.	Deloitte Touche Tohmatsu	1.9	<p>Comment:</p> <p>The paragraph requires NCAs to ensure that “undertakings perform an assessment of their OSN as of 2014”. The sentence does not clarify if the undertakings should perform the assessment during the 2014 or they should perform the assessment on 2014 data. By referring to the Cover Note and specifically to the paragraph “General phase in” 4.6, it seems that EIOPA expects undertakings to produce a FLA in 2014.</p> <p>Suggestion:</p> <p>It would be useful to clearly specify if undertakings could decide to perform it on 2013 YE data or on 2014 forecasts.</p>	See comment 72
74.	Groupe Consultatif Actuariel Européen	1.9	<p>The terminology “as of 2014” is too vague. Does this mean that an assessment must be completed as at 31/12/13 or that the first assessment must be done “as at a date” no later than 2014?</p> <p>The terminology “as of 2014” should be clarified. For example we would suggest giving specific values for the latest “as-at” date and the latest completion-date for the assessment.</p>	The meaning of “as of 2014” is from 2014 onwards; see comment 72
75.	Insurance Europe	1.9	In order to carry out the assessments required by Article 45(1)(b) and (c) of the Solvency II Directive, it is necessary to know how regulatory capital	EIOPA will provide technical specifications

			<p>requirements should be calculated and the assumptions embedded in the calculation of the standard formula.</p> <p>We feel it is unclear whether undertakings would need to be compliant with the rules set in the Guidelines as of 1st of January 2014 or whether the NCAs are recommended to start an assessment of the level of preparedness with respect to these rules, waiting until the time at which Solvency II will enter in force to require full implementation. We would strongly prefer the 2nd option.</p> <p>We understand the requirement to perform an assessment of the overall solvency needs "as of 2014" as the submission in 2015 of an internal report based on year-end 2014 and prospective data. This would be in line with the start of requirements on interim reporting.</p> <p>We would be strongly opposed to any interpretation of this rule that requires undertakings to submit in 2014 forward looking assessments based on 2013 actual and prospective data as we feel this would be far too premature.</p>	<p>for those assessments in accordance with Art. 45 (b) and (c)</p> <p>The Guidelines apply from 1 Jan. 2014 and EIOPA expects undertakings to perform the assessment of their overall solvency needs from 2014 onwards</p> <p>See comment 72</p>
76.	MetLife	1.9	<p>We agree that this assessment can be undertaken irrespective of what regulatory regime applies. As such a key risk in the forward looking risk assessment is the risk of a breach in the applicable regulatory solvency requirements. Prior to Solvency II implementation this means a breach of Solvency I capital requirements. This implies the need to project and stress test on a Solvency I basis. This, together with the requirements of 1.10 below, imply the need to project and stress test capital requirements on a number of different bases and then reconcile the results. We believe that this would place an excessive burden on undertakings prior to Solvency II implementation, particularly undertakings with multiple business lines and / or undertakings with entities located in multiple jurisdictions.</p>	<p>It is the undertaking which decides on the valuation basis of its overall solvency needs, please see Guideline 11; in case of a different valuation basis than Solvency II the undertakings is expected to show significant deviations between those two valuation basis as the FLAOR is a forward</p>

			<p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.</p>	<p>looking assessment for the preparation of Solvency II and not Solvency I</p>
77.	MGM Advantage	1.9		
78.	Munich Re	1.9	<p>The forward looking assessment of the undertaking’s own risks (based on the ORSA principles) is an important pillar II requirement. Since the final pillar I requirements have not yet been finalized and the political process is still ongoing, the respective requirements should not form base of the Guideline (see also General Comment No 2.)</p> <p>We recommend to further align the reporting dates with the preparatory guidelines. For instance, EIOPA-CP 13 (CP on the proposal for Guidelines on submission of information to national competent authorities) clearly defines the reporting period 1.1.2014 – 31.12.2014 (refer also to General</p>	<p>EIOPA will provide technical specifications for those assessment which are more linked to pillar I</p> <p>FLAOR does not have reporting dates like submission of information; it is the</p>

			Comment No 5.)	undertaking which decides on the performance of its FLAOR
79.	ROAM- Réunion des Organismes d'assurance mutuelle	1.9	<p>§ 1.8 et 1.9: Il est difficile de savoir si EIOPA attend (a) une vision prospective des indicateurs de risques (par exemple, la volatilité des actions) ou (b) une vision prospective de l'agrégation de tous les risques.</p> <p>Veillez noter que les techniques à mettre en œuvre au point b. seraient très compliquées, surtout pour les petites entreprises. Il convient de souligner que les universitaires eux-mêmes ne semblent pas avoir de solutions complètes pour ces questions techniques à l'heure actuelle (par exemple projection de l'évaluation des choix de vie et de garanties en 2, 3, 4 ans avec ESG ...).</p> <p>En outre, il semble raisonnable de mettre en œuvre une évaluation du besoin global de solvabilité pour être comparé à la formule standard.</p> <p>Cependant, développement en 2014 d'un besoin global de solvabilité avec (a) les techniques sur qui ne font pas encore consensus parmi les universitaires et (b) avec une formule standard pas encore stabilisée fait courir à l'industrie le risque de coûteuses dépenses. Il faut garder en tête que la formule standard est le fruit de plus de 10 ans de discussions, on ne peut donc attendre des entreprises le développement d'outils répondant à cette même philosophie, notamment pour les entreprises de taille petites et moyennes.</p> <p>En conséquence, nous proposons à EIOPA de préférer l'option prévue au § 1.6, qui consiste à l'élaboration de lignes directrices et de pratiques communes pour l'implémentation d' ORSA.</p>	<p>EIOPA will provide technical specifications for those assessments in accordance with Art. 45 (b) and (c); EIOPA believes that the assessment in accordance with Art. 45 (a) can be performed irrespective of technical specifications</p> <p>Disagree, FLAOR is not only a performance on qualitative indicators; please see Feedback</p>

			Nous nous demandons également si le besoin global de solvabilité mentionné doit se résumer à un chiffre. Il ne nous semble pas pertinent que l'ORSA conduise à refaire un SCR propre qui serait un Modèle interne. L'ORSA doit compléter les aspects quantitatifs du pilier I avec des éléments qualitatifs.	Statement
81.	ACA	1.10	The forward looking assessment is largely based on the assumptions underlying the calculation of the SCR (standard formula) and the technical provisions. The implementation of the ORSA process represents a huge investment in software and IT infrastructure to deal all the datas and results. The ongoing discussions on the calibration of pillar 1 and the uncertainty of the final implementation date and scope of Solvency II don't allow small and medium sized undertakings to make actually the necessary investment decisions essentially in software. Building an efficient ORSA framework needs a large automatisation of the calculations, essentially in order to be able take in consideration a wide range of stress tests and scenario analyses.	EIOPA will provide technical specifications and does not believe that the implementation of IT processes is fully dependant on the final pillar I calculations; see Feedback Statement
82.	AMICE	1.10	EIOPA should provide a definition of the term "risk profile". Additionally the assumptions underlying the standard formula have not been displayed by EIOPA making impossible the assessment of the deviation of the assumptions underlying the standard formula.	It is up to the undertaking to decide on its own risks profile to be assessed in its FLAOR. EIOPA will provide a paper on the underlying assumptions; see Feedback Statement.
83.	Aon	1.10	It is not clear what is expected in the preparatory phase with regards to continuous compliance and the assessment of the deviation with the SCR and which companies this applies to. It would be helpful to bring in the comments from the explanatory text which is clearer.	This assessment is expected from all undertakings within the threshold; see new wording of Guideline 3 and Feedback Statement

84.	Association of Financial Mutuals	1.10	Firms which are non-threshold may need to show coverage for solvency requirements on two bases in their forward looking assessment: both under the current regulatory capital requirements (or Solvency I); and under Solvency II. The continuing uncertainty over which capital regime will apply in the future is damaging and causes extra expense for firms.	The assessment of the continuous compliance is not expected from those undertakings during the preparatory phase which are outside threshold.
85.	ASSURALIA	1.10	Solvency II Pillar I elements should not be part of "Forward Looking assessment of the undertakings's own risk" (see our general comment).	Technical specifications will be provided for the preparatory phase.
86.	CNA Insurance	1.10	While paragraph 1.9 acknowledges the assessment can be performed irrespective of the quantitative regulatory requirements, this paragraph states the assessment can only be performed on the basis as if the undertaking would need to comply with the quantitative requirements. CICL believes subjecting an undertaking to dual regulatory requirements is unduly burdensome. While complying with the Interim Measures would cause an undertaking to essentially accelerate when it may have otherwise incurred certain Solvency II implementation costs, these costs are unnecessarily exacerbated by the need to simultaneously comply with current regulatory requirements in effect.	Please see Feedback Statement 'Double burden'
87.	CRO Forum and CFO Forum	1.10	<p>Given the current Solvency II hiatus, we see little benefit, in having to comply with the requirements set out in this paragraph. We feel it should not be required at this stage to demonstrate that business decisions are even partly based on internal models if they have not been approved, rather it should be demonstrated that the current process for setting risk appetite and risk tolerance limits is in place and is robust, regardless of the metrics used, and that plans to phase in Solvency II measures in this process have been defined. We therefore would strongly support deferral of these requirements</p> <p>Without prejudice to our previous statement, where this paragraph would be maintained, it should at minimum be suspended until the regulatory quantitative requirements have been fully agreed upon, Further clarification as to what would be intended by "continuous" when referring</p>	<p>Those assessments in accordance with Art. 45 (b) and (c) will not be required before 2015 once the technical specifications have been provided by EIOPA.</p> <p>EIOPA has done some redrafting to clarify what the intention is. The performance of the</p>

			to “continuous compliance with regulatory capital requirements” given Solvency II is not in force would be required. Finally, we would suggest that the final sentence should read that ‘these assessments should only be performed to the extent that they can help inform preparation by the undertaking.’	assessment is required because EIOPA thinks that it helps preparation.
88.	Deloitte Touche Tohmatsu	1.10	<p>Comment:</p> <p>The paragraph specifies that “these assessments can only be performed on the basis as if the undertaking would need to comply with these requirements”.</p> <p>Question:</p> <p>A concern could be raised about the implications on strategic decisions process: in case the undertaking will find out to not comply with the SII requirements, should it base its strategic decisions on current SCR (i. e. Solvency I) or on the FLA results, especially if the corresponding strategic decisions would go in the opposite directions?</p>	The whole point is to take into account the effect that Solvency II will have on strategic decisions. EIOPA would expect from undertakings not to ignore the results if the FLA shows that a proposed decision that is advantageous under Solvency I is not such a good idea under Solvency II if the decision will still have effects under Solvency II; see Feedback Statement ‘supervisory actions’.
89.	DIMA (Dublin International Insurance & Management)	1.10	Solvency II Pillar 1 elements should not be considered until such time as the requirements have been finalised.	Technical specifications will be provided by EIOPA.
90.	German Insurance Association (GDV)	1.10	As long as the political process has not been finalized, elements of Pillar I should be excluded at solo level. The implementation at the group level should follow in a next step after Solvency II comes into force (See our general comment).	EIOPA will only request the assessment of the overall solvency needs in 2014; for the other assessments (GL 14-16) EIOPA will provide technical specifications.

				Disagree; the FLAOR on group level is essential for the undertaking and the supervisors to understand better the risk the undertaking is facing and its solvency needs.
91.	Groupe Consultatif Actuariel Européen	1.10	<p>We question the value of a requirement to demonstrate continuous compliance with statutory requirements that are neither finalized nor in effect during the preparatory phase. The requirement to project regulatory solvency on a SII basis as early as 2014 is very ambitious and the effort required by insurers should not be underestimated.</p> <p>We propose an alternative where insurers would have the option to apply the preparatory guidelines for ORSA/FLA in an incremental fashion over 2014-15. In particular, those guidelines referring to Solvency II regulatory requirements and technical provisions could be deferred until the later part of the preparatory phase and the initial assessment in 2014 would concentrate on the "own assessment" of solvency needs. .</p>	<p>EIOPA will only expect those assessments once the technical specifications will be provided by EIOPA which is foreseen in the course of 2014. Therefore the assessments will only be expected from 2015 onwards.</p>
93.	Insurance Europe	1.10	<p>Solvency II Pillar I elements should not be part of "Forward Looking assessment of the undertakings's own risk" at this stage (see our general comment).</p> <p>We feel it should not be required at this stage to demonstrate that business decisions are fully based on internal models even if they have been internally approved, rather it should be demonstrated that:</p> <p>a) a robust process for setting risk appetite and risk tolerance limits is in place, regardless of the metrics used and that</p>	<p>Disagree; but those assessments are only expected once EIOPA has provided technical specifications.</p> <p>The undertaking is not expected to fully use its internal model which is under pre-application in its FLAOR assessments.</p>

			<p>b) plans to phase in Solvency II measures in this process have been defined.</p> <p>We therefore would strongly support deferral of these requirements.</p> <p>In relation to the assessment of the significance of the deviation of the risk profile of an undertaking from the assumptions underlying the standard formula, 1.9.</p>	See comment 87
94.	International Underwriting Association of London (IUA)	1.10	It is not yet possible for Pillar 1 calculations to be made and, in any case, we do not believe that they should be applied to any interim ORSA before Solvency II comes fully into effect. Please see our General Comments.	EIOPA will provide technical specifications for the preparatory phase.
96.	MetLife	1.10	<p>Firstly, there is still considerable uncertainty with regards to the final form of the Solvency II technical provisions and capital requirements. Requiring undertakings to project on an uncertain basis may lead to inconsistencies of results across Europe. It also makes it very difficult, if not impossible, to assess the deviation of the risk profile from the (unfinalised) assumptions underlying the SCR. We propose that undertakings should not be required to include the Solvency II basis in their formal forward looking assessment for these reasons; while at the same time being required to demonstrate to NCAs that they will have the capability to do so once Solvency II is implemented.</p> <p>Secondly, as per our comment in 1.9 above, 1.9 and 1.10 together imply the need to project and stress test capital requirements on a number of different bases and then reconcile the results. We believe that this would place an excessive burden on undertakings prior to Solvency II implementation, particularly undertakings with multiple business lines and / or undertakings with entities located in multiple jurisdictions.</p> <p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking</p>	See comment 76

			<p>should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.</p>	
97.	MGM Advantage	1.10	The use of the word « continuous » needs to be interpreted with care to ensure there are not unnecessarily burdensome reporting requirements.	‘Continious’ is used in accordance with Art. 45 (b) of the Solvency II Directive
98.	Nordea Life & Pensions	1.10	<p>We have a concern that the forward looking assessment of own solvency needs is based on Solvency II quantitative requirements from 2014 for companies above the threshold. Although this was one of the considerations of the consultation paper, and the assessment made that this was worthwhile in order for insurance companies to show their preparedness, there is still uncertainty around the final measures. This uncertainty will lead to additional costs for companies.</p> <p>In the event of any delay to agreement of the final Pillar I measures and/or Solvency II implementation, there appears to be no provision in the</p>	<p>EIOPA will provide technical specification for those assessments and does not expect their performance before the technical specifications have been published.</p> <p>See Feedback</p>

			guidelines for a postponement of the Pillar I-related requirements for the assessment itself. We understand that the assessment will still need to be carried out on the Solvency II basis from 2014.	Statement.
99.	ROAM- Réunion des Organismes d'assurance mutuelle	1.10	<p>La notion de profil de risque n'est pas claire. De plus, tant que la formule standard n'est pas stabilisée et que les hypothèses sous-jacentes ne sont pas clairement explicitées, il est impossible d'évaluer la déviation par rapport à la formule standard.</p> <p>Les hypothèses utilisées pour calculer le SCR, conformément à l'art. 45, ne requièrent pas un modèle quantitatif. Elles doivent permettre d'évaluer l'écart entre le profil de risque et les exigences quantitative S2, le choix du modèle quantitatif ORSA doit être libre</p>	EIOPA will provide technical specifications and does not believe that an assessment on pure qualitative measure is enough to ensure preparation.
101.	MetLife	1.11	Agreed.	Noted
102.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.11	Please refer to point 1.8.	Noted
103.	AMICE	1.12	The term "risk profile" would require a definition to be provided by EIOPA.	Disagree, see Feedback Statement
104.	CNA Insurance	1.12	CICL supports an outcomes focused approach and believe an understanding of what an undertaking views to be its key risks and its view of the capital required to support these risks can be achieved without having to reconcile to the quantitative Solvency II requirements not yet in effect.	Noted
105.	Groupe Consultatif Actuariel Européen	1.12	We agree that guidelines should focus on what is to be achieved, rather than how or when, as this allows insurers to design a process appropriate to their own risk profiles.	Noted
106.	MetLife	1.12	Agreed.	See comment 76

			<p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.</p>	
107.	ROAM- Réunion des Organismes d’assurance mutuelle	1.12	<p>Nous sommes d’accord sur le fait qu’il faille de la souplesse, ce qui n’est pas contradictoire avec la mise en place d’un modèle permettant d’orienter la réflexion.</p> <p>A minima EIOPA devrait donner des définitions claires sur un certain nombre de termes, tels que le « overall solvency needs », ou le « risk profile ».</p>	<p>Noted</p> <p>See Feedback Statement</p>

109.	CRO Forum and CFO Forum	1.13	We do not support that supervisors should require a guideline for reporting on the forward-looking assessment. This statement seems contradictory with the "own" dimension of the ORSA. Necessary information should be disclosed as part of the supervisory reporting whilst the content of the ORSA reporting to supervisors should remain the responsibility of undertakings.	Disagree; to report to the NCA concerned is not equivalent to public disclosure; see feedback statement.
110.	Insurance Europe	1.13	A Guideline for a report on the forward looking assessment of the undertaking's own risks seems contradictory with the "own" dimension of the ORSA.	See comment 109
112.	ACA	1.15	We agree with the the implication of the AMSB in the assessment of the risks, but it is difficult for the AMSB to define a risk strategy based on Solvency II criteria with ongoing discussion about the SCR calibration and as long as Solvency I regulation remains in force.	The message is that the AMSB should be aware of the risks no matter whether they are captured by capital requirements or not.
113.	AMICE	1.15	The guideline states that a progress report on the implementation of these guidelines should be submitted to EIOPA by each national authority. We would like that the report is made public in order to facilitate the supervision of the extent these guidelines have been applied in the different Member States.	Disagree; the progress report is a communication between EIOPA and its members; see feedback statement 'Progress report'.
114.	Insurance and Reinsurance Stakeholder Group (IRSG)	1.15	For this purpose, and in respect with the proportionality principle, it should be possible for the AMSB to delegate any sub-committee which could tackle relevant issues aiming at FLA. The composition of this committee should be balanced in order to reflect the diversity of the AMSB.	Noted; a subcommittee does not take away the ultimate responsibility of the AMSB for the FLAOR; see feedback statement
115.	Insurance Europe	1.15	The role of the Board in directing and challenging the ORSA process is vital within the preparedness for the ORSA process. However, a complete involvement and formalization of the Board's role starting from the Policy approval to the approval of ORSA results needs to be addressed gradually, in light of the phasing in approach, considering current regulatory requirements and risk reporting as well as the overall development of the	Noted; EIOPA is aware that a development is going to take place.

			ORSA process before Solvency II entry in force.	
117.	MetLife	1.15	<p>Agreed.</p> <p>This recognises that the SCR calculation is not the only way of identifying material risks. We believe that the qualitative risk assessment is a very important part of the forward looking risk assessment. There is a risk that there could be less focus on this aspect if an undertaking is required to focus its efforts on projecting the capital requirements on multiple bases as implied by 1.9 and 1.10 above.</p> <p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.</p>	See comment 76

119.	Deloitte Touche Tohmatsu	1.16	<p>Comment:</p> <p>The paragraph affirms that the groups applying for a single FLA need to have “a high level of consistency in processes across the group”. We think that it would be beneficial to specify better how “consistency” should be interpreted.</p> <p>Suggestion:</p> <p>We suggest defining a set of minimum requirements that will ensure a common understanding of “consistency” across NCAs.</p>	Disagree: given the variety of existing group structures, it is not suitable to define further specification for consistency and that is why EIOPA would like to keep this requirement principle based.
121.	Groupe Consultatif Actuariel Européen	1.16	This may cause difficulties if some of the Group’s regulators choose not to comply with the preparatory guidelines.	The requirement applies to the entity responsible for fulfilling the governance requirements at group level and according to the regulation of the EEA country where the parent undertaking is licenced. There is no problem of inconsistency then. The requirement does not apply to the parent outside the EEA.
123.	ROAM- Réunion des Organismes d’assurance mutuelle	1.16	<p>Dans le cas d’un groupe qui souhaiterait réaliser son évaluation prospective, serait-il possible pour celui-ci de préparer un seul rapport FLUOR, sans rapport pour chaque entité solo?</p> <p>Cela pourrait être fait sous la condition que chaque élément significatif</p>	It is possible: it’s the single FLAOR document. Nevertheless in this case the group should comply with Guidelines 20 and 23.

			<p>concernant un type de risque et / ou une entité solo devra être communiqué dans le rapport du Groupe, selon le principe de proportionnalité.</p> <p>Le sujet des groupes étant complexe et insuffisamment abouti sur certains aspects, il nous paraît opportun de laisser la possibilité à ceux qui le souhaitent de faire l'exercice au niveau groupe au lieu de l'imposer à tous les groupes. Cela permettrait au régulateur de bien appréhender le sujet petit à petit.</p>	<p>Noted: the requirement to perform a group FLAOR is not an option.</p>
125.	CRO Forum and CFO Forum	1.17	<p>By making the Guidelines necessarily applicable to both the Group and individual levels, EIOPA is effectively forcing undertakings to implement at a quicker pace than initially required the forward looking assessments at all levels.</p> <p>We believe it should be up to the parent undertaking to:</p> <p>a) choose the appropriate level at which its forward looking assessment is considered appropriate by covering at least all material risks and significant single entities.</p> <p>b) demonstrate why the current level at which its forward looking assessment is conducted is appropriate.</p> <p>With the goal of "phasing-in" Solvency II requirements, we would encourage that the NCAs not be required to enforce applicability of the Guidelines at both levels but rather it could be suggested that part of their assessment be dedicated to how and with what timeline the undertaking will deploy forward looking assessments at those levels that are not yet part of the framework.</p>	<p>Disagree:</p> <p>The scope should be in line with the guideline 19 and include at least, the entities in the scope of group supervision.</p>
126.	DIMA (Dublin International Insurance &	1.17	<p>The implementation at the group level should follow in a next step after Solvency II comes into force.</p>	<p>Disagree : please refer resolution of Comment 14</p>

	Management)			
127.	General Insurance Corporation of India	1.17	<p>The paragraph states “the guidelines apply to both individual undertakings and at the level of the group”. Whilst the application of these guidelines will be clear for most entities it is not clear how they would apply to third country branches of non EEA Re-insurers.</p> <p>As a UK branch of an Indian insurance company, General Insurance Corporation of India (‘GIC’) would welcome clarity on how the guidelines (and the wider Solvency II Directive) are expected to apply to third country branches. To date we still have no clarity on how Article 174 applies and TCBs have received conflicting messages from the regulators.</p> <p>GIC is a large, international reinsurer wholly owned by the Government of India and regulated by the Insurance Regulatory & Development Authority (IRDA), the Indian insurance regulator. IRDA is a member of the IAIS. The global premium income of the Company for the year ending 31st March 2013 was £1.76 billion, and its assets are approximately valued at £ 7.43 billion. GIC UK Branch is however a small EU based establishment, accounting for around 2.6% of the global premium income of GIC.</p> <p>To apply full SII requirements (and the guidelines) to the level of GIC would, in our opinion, be disproportionate and we would welcome clarity on this matter.</p> <p>We recommend the guidelines (and the full SII requirements when implemented) should apply at the level of the EEA branch only. The guidelines (and the full SII requirements when implemented) should not apply in full to the entire entity. It is our opinion that only the qualitative aspects of Pillar II should apply to the entire entity (systems & controls governance, internal audit, actuarial function, compliance function, fit & proper requirements etc.).</p>	The Guidelines do not apply to third country branches and non EEA reinsurance undertakings; see Feedback Statement ‘Third countries’

128.	German Insurance Association (GDV)	1.17	The implementation at the group level should follow in a next step after Solvency II comes into force (see our general comment).	Disagree: please refer to resolution of comment 14
130.	Insurance Europe	1.17	<p>By making the Guidelines necessarily applicable to both the Group and individual levels, EIOPA is effectively forcing undertakings to implement at a quicker pace than initially required the forward looking assessments at all levels.</p> <p>We believe it should be up to the parent undertaking to:</p> <p>a) choose the appropriate level at which its forward looking assessment is considered appropriate by covering at least all material risks and significant single entities.</p> <p>b) demonstrate why the current level at which its forward looking assessment is conducted is appropriate.</p> <p>With the goal of “phasing-in” Solvency II requirements, we would expect that the NCAs are not required to enforce applicability of the Guidelines at both levels; rather, it could be suggested that part of their assessment be dedicated to how and with what timeline the undertaking will deploy forward looking assessments at those levels that are not yet part of the framework.</p> <p>We consider especially complicated the implementation of Pillar I calculation rules at group level at this stage. Pillar I calculations at group should follow in a next step after Solvency II comes into force.</p>	<p>Please refer to the resolution of comment 125</p> <p>Disagree: please refer to resolution of comment 14</p>
131.	International Underwriting Association of London (IUA)	1.17	The application to groups is not feasible without much clarification and it is difficult to see how it could work in relation to subsidiaries, branches and parents outside the EEA.	Disagree: please refer to resolution of comment 14
134.	Deloitte	1.18		

	Touche Tohmatsu			
135.	DIMA (Dublin International Insurance & Management)	1.18	Please see comment 1.17.	Noted
137.	German Insurance Association (GDV)	1.18	See 1.17.	Noted
139.	Insurance Europe	1.18	See 1.17.	Noted
141.	ROAM-Réunion des Organismes d'assurance mutuelle	1.18	Cf. 1.16	Noted
143.	CNA Insurance	1.19	CICL supports the notion that those undertakings applying for the approval of an internal model should use this model in the assessment of their overall solvency needs. Please see related comment in paragraph 1.28.	Noted.
144.	CRO Forum and CFO Forum	1.19	The undertaking suggests changing "are expected" to "should be allowed", in line with § 1.28, so as to allow flexibility for those undertakings which do not wish to fully base their assessment process on internal models until approved.	Undertakings under pre-application should prepare, during the preparatory phase, for ensuring that the internal models plays an important role in the ORSA and in particular in the assessment of the overall solvency needs. For the actual assessment of overall

				<p>solvency needs during the preparatory phase, EIOPA considers more flexibility can be introduced, and therefore will redraft the paragraph to reflect that.</p>
145.	Groupe Consultatif Actuariel Européen	1.19	<p>This presupposes the unapproved model is ready for use in 2014. Is this the case for all such firms?</p>	<p>This is not the intention. Please refer to the resolution to comment 144.</p>
146.	Insurance Europe	1.19	<p>We suggest changing “are expected” with “should be allowed”, in line with paragraph 1.28, so as to allow flexibility for those undertakings which do not wish to fully base their assessment process on internal models until approved.</p>	<p>Please refer to the resolution to comment 144.</p>
147.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.19	<p>Please refer to General Comments section (Timeline for the Guidelines Implementation).</p>	<p>Noted</p>
148.	CRO Forum and CFO Forum	1.20	<p>We understand the “group single forward looking assessment of the undertaking’s own risks” as flexibility given to the undertakings to simplify their assessment and documentation processes where the same methodologies and models are applicable to the group calculations and to its subsidiaries. Additional clarification would be required if this is not the case.</p>	<p>Noted : necessary clarifications are in Article 246 (4) and in Guidelines 20 and 23, and paragraph 1.16 of the document</p>
150.	Groupe Consultatif Actuariel Européen	1.20	<p>Without having to read the guidelines very carefully it is not immediately clear what certain terminology in the guidelines refer to. One example is “overall solvency needs” as used in Guidelines 11 and 12. We take this to refer to the insurers own assessment if its solvency needs – sometimes termed “economic capital requirement”, as opposed to regulatory capital requirements.</p>	<p>Disagree: refer to Article 45 (1a) and to 1.12 of the introduction of the Guidelines. The concept is wider than economic capital.</p>

			It would be useful to develop a set of such terminology, define it clearly here and use it consistently in the guidelines.	
152.	Insurance Europe	1.20	We consider the "group single forward looking assessment of the undertaking's own risks" as flexibility given to the undertakings to simplify their assessment and documentation processes where the same methodologies and models are applicable to the group calculations and to its subsidiaries. Additional clarification is requested if this is not the case.	Please refer to resolution of comment 148
153.	International Underwriting Association of London (IUA)	1.20	In our view, a group approach to the forward-looking assessment will be necessary, but much clarification about the application of requirements to groups would be required.	Noted
155.	ROAM- Réunion des Organismes d'assurance mutuelle	1.20	Concernant le point d) quel est le processus à respecter pour demander au superviseur la possibilité de faire un rapport ORSA unique?	Please refer to resolution of comment 148
156.	The Bermuda Monetary Authority (BMA)	1.20	The BMA notes the definition of "group single forward looking assessment of the undertakings own risks, " and would appreciate clarification of whether EIOPA intends to extend the possibility of using a single report prepared by the group based in a third country, both before and after that country may be assessed as being equivalent?	There is no requirement to perform a group FLAOR during the interim period for a third country based group.
158.	Association of Financial Mutuals	1.21	Again, we would suggest a rewording of this paragraph to avoid firms thinking they need a completed forward looking assessment in place as at 1/1/2014. We understand that the intention is for firms to make sure preparation for Solvency II is undertaken within 2014 and that firms should have a forward looking assessment carried out within the year and to have carried out the work required by the guidelines within that time.	Disagree; the overall solvency assessment is requested by 2014

			We would suggest the paragraph is reworded to state: 'Firms should be making all steps to comply within 2014 and we would expect the guidelines to be complied with by 31/12/2014, although compliance with the full Solvency II requirements is not necessary by then.'	
160.	Groupe Consultatif Actuariel Européen	1.21	See above General Comment No. 3.	Noted
161.	Investment & Life Assurance Group Limited (ILAG)	1.21	This is not achievable by 1 January 2014. The results will be published in October 2013 and the the Prudential Regulation Authority will need to consult further in the UK.	Disagree; from EIOPA's perspective the Guidelines apply from 1 January 14; see feedback statement 'Enforcement measures and supervisory action'
163.	MGM Advantage	1.21	Again, we would suggest a rewording of this paragraph to avoid firms thinking they need a completed forward looking assessment in place as at 1/1/2014. We understand that the intention is for firms to make sure preparation for Solvency II is undertaken within 2014 and that firms should have a forward looking assessment carried out within the year and to have carried out the work required by the guidelines within that time. We would suggest the paragraph is reworded to state : « Firms should be making all steps to comply within 2014 and we would expect the guidelines to be complied with by 31/12/2014, although compliance with the full Solvency II requirements is not necessary by then. »	Disagree; the Guidelines apply from 1 January 2014 to NCAs
164.	Munich Re	1.21	Please refer to General Comment No 2.	Noted
165.	ROAM- Réunion des Organismes d'assurance mutuelle	1.21	Cf. Commentaires Généraux	Noted

167.	ASSURALIA	Section I. General Comments	The submission of quantitative information should not be subjected to supervisory measures or sanctions (capital add-ons) from the NCA as Pillar I requires further adjustments before it can be applied. Any communication to the NCA in relation to the QRTs, the forward looking assessment of the undertaking's own risks or the narrative reporting may not lead to any specific regulatory measures from the NCA.	EIOPA agree in principle. Please refer to the Feedback statement 'Enforcement measures and supervisory action'. However, NCAs cannot close their eyes to obvious problems uncovered in the process.
168.	CRO Forum and CFO Forum	Section I. General Comments	<p>As discussed in our Cover Note, we would need further clarification as to the final purpose of these guidelines and would request the recognition in the guidelines themselves of this period as a preparatory phase. This would affect the calendar to be compliant.</p> <p>As discussed in 1.9 it is assumed that the first overall (forward looking) assessment of solvency needs performed in 2014 would be expected to be reported on in early 2015. It should be possible to use the current regulatory basis (Solvency I) in this interim period.</p> <p>Furthermore and as mentioned in our Cover Note, we support that submission of quantitative information should not be subjected to control or sanction from the NCA in this pre-implementation phase.</p>	<p>Please see feedback statement 'purpose of the preparatory phase'.</p> <p>The first FLAOR should be completed and submitted during the year 2014; see feedback statement. It is the undertaking who decides on the valuation basis of its FLAOR.</p> <p>See Feedback statement 'Enforcement measures and supervisory action'.</p>
169.	DIMA (Dublin International Insurance & Management)	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.	See Feedback statement 'Enforcement measures and supervisory action'.
170.	Groupe	Section I.	A few NCAs are thinking of a threshold in absolute terms (total balance	It is the decision of the

	Consultatif Actuariel Européen	General Comments	<p>sheet) which is easier to assess, but it can give a bias to the conclusions by neglecting small entities. From an actuarial standpoint, small entities present specific risks which have to be taken into account.</p> <p>EIOPA has specified that the development of the forward looking assessment should be subject to a period of "phasing in". This is only vague and undefined in the guidelines. Rather EIOPA has left this as an option for NCAs to apply locally.</p> <p>Furthermore, it is unclear as to how NCA's will proceed to meet the requirement of identifying at least 80% of the market to perform this assessment.</p> <p>The reporting timescales imposed on NCAs in the guidelines may suggest that firms will be required to produce Solvency I and Solvency II assessments in parallel potentially over an extended period until Solvency II is fully implemented.</p>	<p>NCA how to comply with the Guideline on thresholds.</p> <p>See Feedback statement 'purpose of the preparatory phase'.</p> <p>It is the undertaking who can decide on the valuation basis in its FLAOR.</p>
172.	Institut des Actuaire	Section I. General Comments	A few NCAs are thinking of a threshold in absolute terms (total balance sheet) which is easier to assess, but it can give a bias to the conclusions by neglecting small entities. From an actuarial standpoint, small entities present specific risks which have to be taken into account.	See comment 170
173.	Insurance Association of Cyprus	Section I. General Comments	We do not support the requirements that ask for Solvency II pillar 1 calculations. This would be too burdensome and not appropriate for the preparatory stage. Solvency II pillar 1 should only apply when Solvency II is introduced in 2016.	EIOPA will provide technical specification in the absence of a full applicable pillar I.
174.	Insurance Europe	Section I. General Comments	<p>Undertakings should not be subjected to control or sanction from the NCA as a result of the implementation of Guidelines.</p> <p>In order to carry out the assessments required by Article 45(1)(b) and (c) of the Solvency II Directive, it is necessary to know how regulatory capital requirements should be calculated and the assumptions embedded in the</p>	<p>See Feedback statement 'enforcement measures and supervisory action'.</p> <p>EIOPA will provide technical specifications</p>

			calculation of the standard formula.	for those assessments.
175.	International Underwriting Association of London (IUA)	Section I. General Comments	In this context quantitative information could only be provided on an approximate basis.	Agree; in addition EIOPA will provide technical specifications.
176.	ACA	1.22	The forward looking assessment should be implemented from 1 January 2014! We understand that the ORSA process should be implemented from beginning 2014 and that the first complete ORSA exercise should be unwinded on the base of the year ending 31 December 2014. So the first ORSA report has to be produced in year 2015.	This interpretation is not correct. The first report is to be produced when the first forward-looking assessment is to be performed, meaning during 2014.
177.	AMICE	1.22	<p>The application of these guidelines by the national competent authorities as from 1 January 2014 requires a stabilized project and its transposition into national law eventually. In our view, the deadline proposed by EIOPA seems totally unrealistic.</p> <p>The different stages in the implementation of these guidelines should be described in detail and an agreement on priorities seems essential for setting a gradual implementation.</p>	Transposition into national law is not necessarily required to comply with the Guidelines; see feedback statement 'enforcement measures'.
178.	CRO Forum and CFO Forum	1.22	See general comments Section I	Noted
179.	Deloitte Touche Tohmatsu	1.22	<p>Comment: The roadmap foresees the final guidelines to be provided by EIOPA in the third quarter 2013. NCAs are expected to put in place the FLA requirements by 1st of January 2014. We consider it is extremely challenging for NCAs having only 3 months to answer to this request.</p> <p>However, if EIOPA expects to give NCAs more time and thus put in place the guidelines later on (after 1st of January 2014), this decision may have a direct impact on undertakings, specifically on those undertakings that have already set up a process to run in the first/second quarter of the</p>	<p>Disagree; this is normal procedure under the EIOPA regulation for the comply or explain mechanism.</p> <p>The Guidelines apply from 1 Jan. 2014 to NCAs.</p>

			year.	
181.	Groupe Consultatif Actuariel Européen	1.22	ORSA is supposed to be fully embedded as at 1/1/2014. The cover note includes on the contrary a "phasing in". A timetable of implement should be settled, in order to be realistic to make sure that the full implementation is made as at 1/1/2016.	See Feedback statement 'purpose of the preparatory phase'.
182.	Institut des Actuaire	1.22	ORSA is supposed to be fully embedded as at 1/1/2014. The cover note includes on the contrary a "phasing in". A timetable of implement should be settled, in order to be realistic to make sure that the full implementation is made as at 1/1/2016.	See comment 181
183.	Insurance Europe	1.22	See general comments Section I.	Noted
184.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.22	Please refer to General Comments section (Timeline for the Guidelines Implementation and Basis for Guidelines Implementation).	Noted
185.	ROAM- Réunion des Organismes d'assurance mutuelle	1.22	<p>Cf. Commentaires Généraux</p> <p>L'application de ces recommandations au 01 janvier 2014 par les autorités nationales compétentes, nécessite avant tout un projet stabilisé et la transposition en droit national. Le délai proposé par EIOPA nous paraît totalement irréaliste.</p> <p>Quelle est la date butoir des superviseurs (y compris éventuelles transpositions en droit local) pour que les guidelines soient applicables au 01/01/2014?</p> <p>La mise en œuvre du modèle doit être décrite étape par étape en détail, et l'établissement de priorités nous semble essentiel pour une mise œuvre progressive du dispositif.</p>	<p>See Feedback Statement 'Enforcement measures'; it is not necessarily needed that the Guidelines are transposed into national law in order for the NCA to comply.</p> <p>The Guidelines apply from 1 January 14 to NCAs.</p>
186.	Aon	1.23	What does readiness for the forward assessment look like? What levels of	See Feedback

			progress will NCAs be expecting?	statement 'purpose of the preparatory phase'
187.	Association of Financial Mutuels	1.23	Can we suggest inserting « that would be subject to the Solvency II directive » after « undertakings »	EIOPA has introduced this clarification under Guideline3 (paragraph 1.25)
188.	CRO Forum and CFO Forum	1.23	This guideline should be deleted as it duplicates the intended outcome of the framework being established by the remaining guidelines. It does not add to these guidelines and does not reflect the requirement of Article 45 which is focused on building a forward looking assessment process rather than building qualitative information.	Disagree; the Guideline is necessary for the preparatory phase.
189.	Deloitte Touche Tohmatsu	1.23	<p>Comment:</p> <p>This paragraph focuses the attention of NCAs on the process and the qualitative information supporting the FLA. While the former is expected to be included in the FLA policy (as stated in guideline 7 – paragraph 1.33), the latter, qualitative information, is not.</p> <p>Question:</p> <p>Would EIOPA consider appropriate to include a statement referred to qualitative information in the FLA policy? If it is the case, it would be beneficial to have further clarification and some examples of qualitative information.</p> <p>Suggestion 1:</p> <p>It would be beneficial if EIOPA could clarify the link between «qualitative information » and the different components of the FLA documentation in section 1.32 b), c), d). For examples: Is this completely the same, is one part of the other and if, which of which? Or is this «qualitative information» something new and different? Further clarification on this matter would be appreciated.</p> <p>Suggestion 2:</p>	<p>Disagree; the Guideline is setting the expectations for the preparatory phase.</p> <p>Disagree; see Final report from July 2012 on the consultation CP11-8</p> <p>This is not additional information to that already provided through the FLAOR by way of reporting and documentation.</p> <p>How the evaluation is to</p>

			As stated in this paragraph, the NCA is to review and evaluate the quality of the information. It would be useful if EIOPA could explain how this evaluation is to be performed (how to measure quality) and how the « level playing field » is to be safeguarded. Further clarification on this matter would be appreciated as lack of guidance may lead to inconsistency among NCAs.	be preformed is part of the internal assessment process of the NCAs and as such outside the scope of this consultation. NCAs will go on exchanging views and discussing cases during the preparatory phase and after the start of Solvency II in order to ensure that there is a convergent approach among NCAs.
190.	DIMA (Dublin International Insurance & Management)	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.	We need the information to be in position to review and evaluate the process.
192.	Insurance Europe	1.23	The purpose of building qualitative information supporting the ORSA should be to make it possible for the undertaking to form an own assessment of its risks, not to support information to the supervisor.	Please refer to the resolution to comment 190.
194.	MetLife	1.23	Agreed. However, as per our comment in 1.9 above, 1.9 and 1.10 together imply the need to project and stress test capital requirements on a number of different bases and then reconcile the results. We believe that this would place an excessive burden on undertakings prior to Solvency II implementation, particularly undertakings with multiple business lines and / or undertakings with entities located in multiple jurisdictions.	See comment 76

			<p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.</p>	
195.	MGM Advantage	1.23	We suggest inserting « that would be subject to the Solvency II directive » after « undertakings »	See new wording of Guideline 3
196.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.23	At this moment of time it is not clear how local NCA will ensure that undertakings take appropriate steps to introduce FLAOR. In our opinion local NCA should clearly define its expectations regarding the shape of FLAOR and the steps of its introduction. Based on the proposed timeline (introduction of local guidelines on 1st of January 2014) we would like to suggest dedicating the whole year 2014 to local pre-application discussions between NCA and undertakings which would lead to mature and well orchestrated preparation of detailed and precise local implementation	Disagree; the Guidelines apply from 1 January 2014

			<p>timeline covering both implementation deadlines and details regarding qualitative and quantitative FLAOR requirements. Based on our proposal we believe that the real implementation process should take place in 2015 and as a result the first FLAOR reporting should be performed in 2016.</p> <p>It is also unclear how the NCA can legally influence the undertaking to take appropriate steps in terms of FLAOR implementation. In other words there is a risk that before 2014.01.01 it will be not possible to introduce appropriate legal acts which will give local NCA the power to request undertakings to apply FLAOR.</p>	<p>See Feedback statement 'Enforcement measures'</p>
197.	ROAM- Réunion des Organismes d'assurance mutuelle	1.23	<p>Quel est le délai prévu pour que les autorités nationales compétentes publient leurs orientations sur les informations qualitatives? Le fait de demander que les lignes directrices soient mises en place dès le 1er Janvier 2014 au niveau des entreprises implique que les orientations doivent être publiées par les autorités nationales compétentes avant cette date, alors même qu'avant cette date, la recommandation ne leur est pas applicable.</p> <p>De plus, il nous semble indispensable que les autorités compétentes consultent leurs marchés avant d'émettre des propositions d'orientations définitives.</p> <p>Est-ce que EIOPA pense que le délai est réaliste pour les autorités nationales compétentes?</p> <p>Comment évalue-t-on la qualité de l'information mentionnée au point b)?</p>	<p>The Guidelines apply from 1 January 2014 to NCAs.</p>
198.	RSA Insurance Group	1.23	<p>The requirement to « build a process » implies an expectation that undertakings will not already have such a process in place. National competent authorities should recognise that for most undertakings, development will take the form of building on the processes that are</p>	<p>Noted</p>

			already in place.	
200.	Deloitte Touche Tohmatsu	1.24	Comment: Our understanding of the rationale of this paragraph is to require NCAs to start documenting their activity starting from 2015 by depicting the picture of the national context observed during the 2014. Referring to the paragraph 4.6 of the Cover Note (and specifically "NCAs are entitled to have different expectations towards undertakings for the forward looking assessment produced in 2015 as compared with that produced in 2014.") we expect the NCAs would adopt a step by step approach, providing undertakings with different priorities on the guidelines and requirements they will put in place and monitor in the preparatory phase.	This means NCAs will expect the quality of the assessment in 2015 to have improved as compared to 2014.
202.	Groupe Consultatif Actuariel Européen	1.24	The deadline « 28.2.2015 » for the national authorities implies a much earlier deadline for the undertakings to report to the national supervisor, the date should be delayed. This is important in case of future changes of pillar 1. The time span could become narrow.	There is no implication of any report from undertakings to NCAs at all, whether they ask undertakings for reports is entirely up to NCAs; see Feedback Statemetn 'progress report'.
203.	MGM Advantage	1.24	The requirement for the NCA to report within 2 months of the end of the year could be difficult to achieve if a detailed and high quality report is required.	EIOPA does not envisage a detailed report, see comment 202.
204.	MSV Life	1.24	The submission date of 28th February 2015 will effectively mean an 8 week time window for the respective national competent authority to submit its progress report to EIOPA. This does not leave sufficient time for NCA's to assess the submissions the have received (assuming first year submissions are as at the year end) and feedback to undertakings before reporting to EIOPA. This might distort the picture presented. By not allowing for any interaction between the undertakings and the national competent authority prior to the EIOPA submission an opportunity for important feedback is missed.	Not necessary for a general progress report which should show the progress achieved during the year 2014; see comment 202.
205.	Munich Re	1.24	With regard to the progress report the deadline « 28.2.2015 » for the	Please refer to the

			respective NCA appears to be very ambitious. If the progress report requires quantitative data to be reported by the undertaking it implies a much earlier deadline for the undertakings to report to the NCA. Therefore, it should be stressed that the report is mainly based on qualitative information or the deadline should be extended	resolution to comment 202.
206.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.24	In our opinion the annual progress report prepared by local NCA should not be supplemented by any kind of comply or explain procedure (e.g. local peer review report etc.). Such report would require the analysis of compliance of each undertaking with the interim measures requirements. We believe that the compliance should be tested on the basis of final requirements after the official introduction of Solvency II.	Disagree. We are talking about a high level progress report which does not need to go in detail about each undertaking; see comment 202 and Feedback Statement 'comply or explain'.
207.	ROAM- Réunion des Organismes d'assurance mutuelle	1.24		
208.	AMICE	1.25	<p>This paragraph is in contradiction with paragraph § 1.5 where it is stated that national competent authorities are expected to engage with companies in a close dialogue on the ORSA; In this way, there is an overlap between the envisaged authority-industry dialogue, whose purpose is to define the way the requirements should be put in place, and the request to implement the requirements which have not been defined yet.</p> <p>Furthermore, in paragraph 1.8 it is stated that undertakings are expected to actively prepare and begin the implementation of the forward looking assessment of the undertaking's own risks but no reference is made to the assessment of the overall solvency needs; Such assessment would require sophisticated techniques which would take longer than the 6 months time</p>	<p>EIOPA does not agree that there is a contradiction.</p> <p>1.25 is about timeline, whilst 1.5 is about process. The purpose of the dialogue is definitely not to define the way the requirements should be put in place.</p> <p>Not directly, but it says "similar to to what they will have to do once Solvency II will apply".</p>

			<p>frame envisaged by EIOPA.</p> <p>In addition, methodological support from the competent authorities will be necessary in order to lay down uniform rules.</p>	
209.	CRO Forum and CFO Forum	1.25	<p>It is not clear what this paragraph adds to guideline 3 or to existing requirements of regimes currently in force. We suggest that this paragraph be deleted.</p> <p>Furthermore, it is assumed that the first overall (forward looking) assessment of solvency needs performed in 2014 would be expected to be reported on in early 2015. It should be possible to use the current regulatory basis (Solvency I) in this interim period.</p>	<p>Disagree; it is the date of application of preparatory Guidelines by NCAs.</p> <p>The first FLAOR should be performed and finalised in the course of 2014.</p> <p>Valuation basis is in the decision of the undertaking, see Guideline 11.</p>
210.	Deloitte Touche Tohmatsu	1.25	<p>Comment:</p> <p>We understand that overall solvency needs means the assessment is on a continuous basis, point in time of the year (e.g. year end) and projected over planning horizon on both the SII SCR basis and where relevant on internal management own view of solvency. If this is not the case we hope EIOPA will make this clear in her answer.</p> <p>Comment:</p> <p>The rationale of the paragraph is to require NCAs to apply the requirement of OSN assessment to all the undertakings.</p> <p>As regards to the assessment to be performed in 2014, we believe that flexibility could be granted by NCAs to undertakings considering the general phase-in principle. For example referring to UK regime, it could be accepted by NCA that undertakings perform the assessment solely on an ICA valuation basis as long as the decision making are based on the assessment, reporting and governance arrangements referred to ICA,</p>	<p>Agree</p> <p>See comment 209</p>

			while expecting undertakings to use a SII basis SCR in 2015 . (please see also the question in 1.10)	
212.	Groupe Consultatif Actuariel Européen	1.25	The terminology "starting in 2014" is too vague. Does this mean that an assessment must be completed by 31/12/13 or that the first assessment must be done "as at a date" no later than 2014? The terminology "starting in 2014" should be clarified.	The first assessment is to to performed (and completed)at an unspecified time in 2014 and on a regular basis from then on.
213.	Insurance Europe	1.25	See general comments.	Noted
215.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.25	Please refer to point 1.23.	Noted
216.	ROAM- Réunion des Organismes d'assurance mutuelle	1.25	Cette proposition est en contradiction avec les autres: (a) au § 1.5, où il est dit que l'année 2014 sera utilisée pour engager un dialogue étroit sur les définitions des normes, des directives et des pratiques de l'ORSA: comment pourrait-il être possible de procéder à la même époque (i) à un dialogue dont l'objet est de définir la façon de travailler et (ii) de mettre en oeuvre le résultat de ces méthodes qui ne sont pas encore définies ? (b) au § 1.8, où il est dit que l'année 2014 est consacrée à la vision prospective des risques, et non à l'évaluation des besoins globaux de solvabilité. Veuillez noter que l'élaboration et la mise en oeuvre d'un tel calcul nécessite des techniques très sophistiquées, et longue à mettre en place, comme le temps mis pour définir la formule standard en est l'illustration. La complexité de mise en oeuvre requiert donc un délai beaucoup plus important que le délai de 6 mois envisagé. Par ailleurs , un accompagnement méthodologique des autorités compétentes est indispensable de sorte à poser des règles uniformes. Les besoins globaux de solvabilité doivent être identifiés à travers	See comment 212 The assessment of overall solvency needs is in accordance with Article 45 (a) of the Solvency II Directive

			<p>l'exercice quantitatif (pilier 1): les besoins supplémentaires devraient être décrits au regard de chaque type de projet.</p> <p>Nous souhaitons que EIOPA apporte des clarifications quant à ce qu'elle entend par « overall solvency needs »</p>	
218.	AMICE	1.26	<p>Guideline 3 – Threshold for the forward looking assessment of the undertaking 's own risks</p> <p>To ensure a proper and harmonised application of the proportionality principle, EIOPA should not allow the possibility for national authorities to go beyond this threshold. We would suggest that EIOPA complements these thresholds by other qualitative and quantitative criteria (turnover, profit, risk type, etc ...).</p> <p>A full ORSA process should be conducted at least once a year. However, a full ORSA report containing the annual results of the process should only be submitted to the supervisory authorities as from 2015 once the process has been implemented and the narrative report and reporting templates have been submitted. The date of the full process and the ORSA report to the supervisory authorities should therefore be left to the discretion of the undertakings themselves.</p> <p>We propose the following re-drafting suggestion:</p> <p>National competent authorities should require that undertakings representing at least 80% of the market share as defined in Guideline 5 to7 in the "Guidelines on submission of information to national competent authorities" perform an assessment if the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements on the Solvency II technical provisions starting in 2014 2015.</p>	<p>It is the decision of the NCAs how to comply with Guideline 3.</p> <p>EIOPA wants an ORSA on best effort basis also in 2014, including reporting. See comment 202</p> <p>Guideline 3 applies for the preparatory phase.</p>

			Furthermore, we would suggest that the materiality thresholds as proposed in these interim measures are applied at predefined periods once solvency becomes fully applicable.	
219.	Aon	1.26	Will NCAs be required to advise undertakings whether they meet the threshold criteria (as per Guideline 5 in the submission of information to national competent authorities) and if so when will they find out the results of the market share calculations? If NCAs decide not to calculate the market share thresholds, will EIOPA take the lead?	Yes. No.
220.	ASSURALIA	1.26	It should be clarified when the supervisors should notify companies if they fall within the proposed threshold, as in the Guidelines for reporting. This should be as soon as possible.	It is the decision of NCAs how to comply with this Guideline.
221.	CNA Insurance	1.26	Please see comments related to Guidelines 14 and 15 (paragraphs 1.42 and 1.43).	Noted
222.	CRO Forum and CFO Forum	1.26	<p>We would like confirmation on the purpose of Guideline 3 which would appear to be that there should be requirements for undertakings above a certain threshold to carry out a forward looking assessment. Paragraph 1.26 should make this clearer. In addition, we strongly feel that references to Solvency II – which is not yet in force – at this stage should be changed to allow undertakings to perform projections according to current regimes or economic capital used by firms. Any reference to calculations related to the possible final Solvency II regime should make it clear that these are preparatory.</p> <p>Therefore we propose the following wording</p> <p>‘... Take steps to be able to perform an assessment if the undertaking is implementing forward looking assessment requirements in the interim period. Such assessment should contain an indication on whether the undertaking would be in a condition to comply with expected ORSA</p>	<p>EIOPA will provide technical specifications; see new wording of Guideline.</p> <p>Disagree; the preparatory Guidelines apply to NCA by 1.1.2014.</p>

			<p>requirements when Solvency II comes into force.'</p> <p>.</p> <p>We would also recommend that NCAs be requested to communicate early 2014 which undertakings exactly would fall under the rules set in 1.26 and 1.27.</p>	<p>NCAs decide how to comply with the Guideline.</p>
223.	Deloitte Touche Tohmatsu	1.26	<p>Question: How should the compliance « on a continuous basis » be assessed? Should for example « regulatory risks » be factored in as SII requirements are expected to change in the years coming (e. g. application of matching adjustment which could be make quite difference for some life insurers)? Further clarification on this matter would be appreciated.</p> <p>Question: We understand it is up to the NCA to calculate which firms fall into the 80% threshold limit and to communicate this to firms. Is it expected that NCAs communicates the list of the undertakings falling into the threshold by end of 2013? Further clarification on this matter would be appreciated.</p> <p>Question2: Some smaller firms have made few preparations for Solvency II. Given the centrality of the ORSA to the Solvency II objectives, was the option of requiring firms outside of the threshold to comply with a subset of requirements considered? For example, to calculate their own solvency needs and report this at least annually to the AMSB?</p>	<p>That is up to each undertaking. "All risks" should be considered.</p> <p>Yes.</p> <p>Yes.</p>
224.	FEE	1.26	<p>The requirement, that national competent authorities should ensure that insurance and reinsurance undertakings are included in a way, that at least 80 % of the national market share should be represented is imprecise. It does not become clear, how it has to be decided from the perspective of a (small or mid-size) single undertaking if it is within or out of the 80 %-threshold. So, in order to clarify the scope there should be criteria, how it has to be defined. In addition for life insurers it is not</p>	<p>NCAs decide how to comply with this Guideline.</p>

			specified which accounting basis should be applied for the calculation of technical provisions when determining the market share of an undertaking. As regards the timing we believe that a clause like the one for the submission of information to NCAs (timing being subject to review if Omnibus II is not approved in October and Solvency II is further delayed) is also needed in relation to the part of ORSA requirements relating to compliance with SII regulatory capital requirements and calculation of technical provisions.	
226.	General Insurance Corporation of India	1.26	<p>The consultation paper proposes National competent authorities should require undertakings representing at least 80% of the market share perform the forward looking assessment. Following on from our comments against paragraph 1.17 above we would welcome further clarity on application of the guidelines to third country branches. In particular, we would welcome clarity on whether inclusion within the 80% threshold would be evaluated based on the business of the EEA branch (in our case 2.6% of global premium) or the business of the entire entity (100% of global premium). In this scenario we do not believe it would be proportionate to include a non EEA entity in the preparatory phase based on the 97.4% of premiums written outside of the EEA.</p> <p>We recommend inclusion within the 80% threshold should be based only on premiums written by the EEA branch.</p>	See Feedback Statement 'Application by third countries'
227.	German Insurance Association (GDV)	1.26	<p>As long as the political process has not been finalized, elements of Pillar I should be excluded at solo level. The implementation at the group level should follow in a next step after Solvency II comes into force (See our general comment).</p> <p>Guideline 3 on the thresholds should apply for the requirement of guideline 11 that the undertaking quantitatively estimates the impact of a recognition and valuation bases different from Solvency II.</p>	<p>EIOPA will provide technical specifications and the Guidelines should be addressed to groups during the preparatory phase, too.</p> <p>Agree; see new wording of Guideline 11.</p>
228.	Groupe Consultatif	1.26	The language is a bit confusing here: Would this be clearer reworded as "National competent authorities... perform an assessment of whether the	EIOPA has changed the wording to "whether".

	Actuariel Européen		<p>undertaking would comply ...starting in 2014." i.e. replace "if" with "of whether"?</p> <p>See above in response to paragraph 1.10. We believe insurers should have the option to defer the assessment of compliance on a continuous basis with SII Technical Provisions and SCR until the later stages of the preparatory phase.</p> <p>The guidelines should set out clearly (without referring the reader elsewhere) how NCAs will apply the thresholds and the date by which insurers will know if they are within or outside the threshold(s)</p> <p>Rather than the complicated wording in paragraphs 1.26-1.29 it would be much clearer to show a table of the guidelines with an indication for each individual guideline of whether, and to whom, it applies during the preparatory phase.</p>	<p>NCAs decide how to comply with the Guideline.</p> <p>Disagree, because of NCAs decision powers.</p>
230.	Insurance Association of Cyprus	1.26	<p>In (small) markets such as Cyprus where only a few insurers possess the big majority of the market share while a large number of others share the remaining, the 80% threshold will include very small insurers. Imposing the full ORSA requirements on such undertakings would impose a huge and disproportional burden on them.</p> <p>We suggest introducing exceptions to the 80% rule where undertakings falling within the threshold are below a certain absolute size.</p>	<p>NCAs decide how to comply with this Guideline.</p>
231.	Insurance Europe	1.26	<p>Solvency II Pillar I elements should not be part of "Forward Looking assessment of the undertakings's own risk" at this stage (see our general comment).</p> <p>It should be stated when the supervisors should notify companies if they fall within the threshold, as in the Guidelines for reporting. This should be done early in 2014, or even in 2013.</p>	<p>EIOPA will provide technical specifications, see new wording of the Guideline.</p> <p>NCAs decide how to comply with the Guideline.</p>

			<p>Guideline 11 should only be applied to undertakings within the thresholds established in this Guideline or otherwise deleted.</p> <p>This Guideline should clarify that this requirement will just be applied if EIOPA provides technical specifications for the calculation of the Solvency II technical provisions and regulatory capital requirements.</p> <p>It should be clarified that the market share refers only to undertakings that under current circumstances would be subject to Solvency II and are not excluded due to size, the operations they carry out, because they are institutions excluded from its application or any other circumstances.</p>	<p>See new wording of Guideline 11.</p> <p>The scope of the preparatory Guidelines is the same as for Solvency II.</p>
233.	MetLife	1.26	<p>As per our comments in 1.9, 1.10 above, we do not agree that undertakings should be required to comply with this requirement.</p> <p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive</p>	<p>See comment 76</p>

			burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.	
234.	Munich Re	1.26	When determining thresholds per country, a level playing field should be ensured at all times.	It is the decision of the NCAs how to comply with the Guideline.
235.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.26	<p>With reference to point 1.31, 1.33 and 1.34 of "Consultation Paper on Proposal for Guidelines on submission of information to national competent authorities":</p> <p>According to point 1.31 the NCA "should calculate the national market share (...) based on the data submitted by insurance (...) undertakings for the purpose of supervisions on the annual reporting period ending during 2012".</p> <p>Points 1.33 and 1.34 state that the market share of undertaking should be based on the undertaking's level of gross technical provisions for life business and gross premium written for non-life business.</p> <p>In our opinion there is a potential risk that 2012 year end information will not be representative for 2014.01.01-2014.12.31 reporting especially in terms of fast growing markets. For example in terms of Poland the 2012 data might not be representative for life business due to large number of short term investment products which had a strong impact on the balance sheet position of technical provisions.</p> <p>The local NCA should have an ability to base on most recent data available (as far as the data are complete and accurate and refer to all market players), but within the timeline defined in point 1.35 (the NCA must notify the undertaking of falling into defined thresholds no later than 11 months before the initial submission reference dates).</p>	<p>Noted</p> <p>It is the NCA's decision how to comply with the Guideline.</p>
236.	ROAM-Réunion des Organismes	1.26	Pour assurer une bonne application du principe de proportionnalité, nous demandons à EIOPA de figer les seuils proposés et de ne pas laisser la possibilité aux autorités nationales d'aller au-delà de ce seuil, ceci afin	NCAs decide how to comply with the Guideline.

	d'assurance mutuelle		<p>d'assurer autant que possible une harmonisation proportionnelle. De plus les petites et moyennes entreprises ne pourraient pas mettre en place une telle exigence dans un délai aussi court.</p> <p>C'est pourquoi nous proposons à EIOPA de compléter ces seuils par d'autres critères qualitatifs et quantitatifs (chiffre d'affaires, résultat, type de risque,etc...).</p> <p>Comment EIOPA va t-elle s'assurer que, sur l'ensemble du marché européen, les pratiques et les lignes directrices élaborées pour l'évaluation d'ORSA seront les mêmes?</p> <p>De plus, nous tenons a rappeler que tant que la formule standard ne sera pas définitive, et ses hypothèses explicitées, il est impossible de comparer un profil de risque au SCR standard.</p>	EIOPA will provide technical specifications.
237.	RSA Insurance Group	1.26	<p>The assessment of continuous compliance with capital requirements must be on the basis of the regulatory requirements that are actually in place, not the prospective Solvency II requirements. The assessment is a management tool that will result in management actions and these necessarily have to take account of the existing requirements. The assessment will of course need to take account of the requirements that are likely to apply in the future and to this extent the assessment will consider the effect of the Solvency II requirements from the date they are expected to be effective.</p> <p>In any event, until the Pillar 1 requirements are finalised, it may not be practical to make a meaningful assessment of whether the group would comply with the Solvency II regulatory requirements.</p>	<p>EIOPA will provide technical specifications.</p> <p>Disagree: please refer to resolution of comment 14</p>
239.	AMICE	1.27	<p>This paragraph provides national competent authorities with the ability to request an assessment of whether the group complies on a continuous basis</p>	<p>Disagree: both paragraphs do not refer to the same concept. 1.27 refers to group</p>

			<p>with the Solvency II regulatory capital requirements and the Solvency II requirements on technical provisions. This is inconsistent with paragraph 1.16, which states that the group has the choice to conduct a single forward looking assessment at group level. Furthermore, and as mentioned in our comments on the previous paragraph, an assessment as to whether the group would comply with the capital requirements and SII technical requirements should only be submitted once the narrative report and group reporting templates have been sent to the NSAs.</p> <p>Re-drafting suggestion:</p> <p>National competent authorities should require that groups submitting annual quantitative information as defined in Guideline 9 in the "Guidelines on submission of information to national competent authorities" perform an assessment if the group would comply on a continuous basis with the Solvency II regulatory capital requirements and the requirements on the Solvency II technical provisions starting in 2014 2015.</p>	FLAOR and 1.16 refers to single FLAOR document.
240.	CNA Insurance	1.27	Please see comments related to Guidelines 14 and 15 (paragraphs 1.42 and 1.43).	Noted
241.	CRO Forum and CFO Forum	1.27	We see no benefit in performing an assessment of compliance with Solvency II regulatory requirements and technical provisions whilst the rules defining these calculations are yet to be finalised, see also comment on paragraph 1.26	EIOPA will provide technical specifications for this assesment.
242.	DIMA (Dublin International Insurance & Management)	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.	EIOPA will provide technical specifications; in addition please see Feedback statement 'double burden'.
243.	FEE	1.27	As regards the timing we believe that a clause like the one for the submission of information to NCAs (timing being subject to review if	See new wording of the Guideline

			Omnibus II is not approved in October and Solvency II is further delayed) is also needed in relation to the part of ORSA requirements relating to compliance with SII regulatory capital requirements and calculation of technical provisions.	
245.	German Insurance Association (GDV)	1.27	See 1.26	Noted
246.	Groupe Consultatif Actuariel Européen	1.27	As discussed above it is premature to ask insurers and groups to assess whether they would continuously comply with SII regulatory capital requirements from 2014, particularly as the requirements have not been finalised. We believe insurers should have the option to defer the assessment of compliance on a continuous basis with SII Technical Provisions and SCR until the later stages of the preparatory phase.	EIOPA will provide technical specifications. Agree; see new wording of those Guidelines.
248.	Insurance Europe	1.27	See 1.26	Noted
249.	International Underwriting Association of London (IUA)	1.27	While the double requirement could be justified on an informal basis in the run-up to full implementation of Solvency II, it appears excessive on an ongoing basis.	The assessment is in accordance with Article 45 of the Solvency II Directive, which requires on an assessment on ongoing basis.
250.	Munich Re	1.27	Please refer to Para 1.26.	Noted
251.	ROAM- Réunion des Organismes d'assurance mutuelle	1.27	Cette proposition est contradictoire avec le § 1.16, dans lequel il est dit que le groupe pourrait choisir («wish») la possibilité ou non de faire une évaluation à l'échelle du Groupe. Ici, il est écrit que l'autorité nationale compétente oblige à le faire.	Disagree: Please refer to resolution of comment 239
252.	RSA	1.27	It is neither reasonable not practical to require an assessment to be made	That is the general idea.

	Insurance Group		of continuous compliance with the Solvency II requirements on technical provisions. This would require undertakings to calculate their technical provisions on a Solvency II basis and would be tantamount to introducing the Pillar 1 requirements on technical provisions ahead of the agreed implementation date of Solvency II. In any event, key aspects of the calculation of technical provisions are not yet finalised.	Introduction of Pillar I requirements ahead of Solvency II would mean that undertakings have to comply with the requirements already which is not the case.
253.	ASSURALIA	1.28	Double use of an internal model and the standard formula penalizes undertakings especially in the preparatory phase. Interim measures should focus on the preparedness of internal models instead of on the standard formula for undertakings engaged into the pre-application process. After approval on the use of an internal model, the NCA could require an estimate of the Solvency Capital Requirement determined in accordance with the Standard Formula (article 112 of the Directive).	<p>For undertakings engaged in a pre-application process for internal models, according to Guideline 1 of the Pre-application Guidelines for Internal Models, it is expected that they prepare for the eventuality that their internal model may not be approved and set up processes to calculate the standard formula Solvency Capital Requirement as well as to consider the capital planning implications.</p> <p>To be in line with this, in the assessment of the continuous compliance with regulatory capital requirements, undertakings in pre-application may use the</p>

				<p>internal model for such an assessment provided that they demonstrate that they are preparing for the eventuality that their model may not be approved in the terms set out in Guideline 1 of the Pre-application Guidelines for Internal Models.</p> <p>Please note that for the assessment of the overall solvency needs more flexibility is given, and, for the assessment of the significance of the deviation of the risk profile from the SCR calculation, undertakings under pre-application should not be required to do this assessment during the interim period.</p> <p>Please refer also to the resolutions to comments 7 and 253.</p> <p>This will be clarified in the Guidelines.</p>
254.	CNA Insurance	1.28	<p>CICL believes being required to complete the assessment using an internal model (for those going through the pre-application process), as well as under the assumption that the model will ultimately not be approved is unduly burdensome. Such a requirement adds even more cost and burden to an undertaking already operating under the constraints of existing</p>	<p>Please refer to the resolution to comment 253.</p>

			regulatory requirements as well as the Interim Measures using an internal model approach, thus effectively resulting in the need to comply with three separate sets of regulatory requirements.	
255.	CRO Forum and CFO Forum	1.28	<p>This is very onerous. It requires companies in the pre-application process to project under S2 rules, which are not finalised, using both their Internal Model and also on a Standard Formula basis. This would be alongside planning projections on the current regulatory basis to meet current regulations.</p> <p>The guideline should at most require a qualitative assessment of how a projection on a S2 Standard Formula basis might compare with their projections of their current Economic Capital assessment.</p> <p>This would then provide useful information for the undertaking in the current regulatory environment (prior to S2 'go live'),</p> <p>This would also be consistent with section 2.79, which indicates a less onerous requirement to explain the effect if it turns out the undertaking has to use the standard formula as approval for the model is refused. '</p>	<p>Please refer to the resolution to comment 27 and 253.</p> <p>EIOPA expects undertakings, if using the internal model under pre-application for the assessment of the continuous compliance with regulatory capital requirements, to be able to demonstrate that they are preparing for the eventuality as explained in Guideline 1 of Pre-application Guidelines.</p>
256.	Deloitte Touche Tohmatsu	1.28	<p>Comment:</p> <p>We understand the rationale of the paragraph is to allow undertakings to use their internal model during the preparatory phase for FLA purpose. The second part of the paragraph seems to require to these undertakings to perform a second assessment that should ensure, in case the internal model will not be approved, that the undertaking has in place an assessment that satisfies regulatory requirements. Moreover, in the annex at the end of paragraph 2.79, EIOPA specifies that the undertaking should be "able to explain the effect on capital needs if the standard formula were to be used".</p> <p>Question:</p>	<p>EIOPA expects undertakings, if using the internal model under pre-application for the assessment of the continuous compliance with regulatory capital needs, to be able to demonstrate that they are preparing for the eventuality as explained in Guideline 1 of Pre-application Guidelines.</p>

		<p>What is expected from the undertaking for the second part of this requirement? Does the undertaking need to calculate the standard formula and its future compliance with it or could the undertaking perform a qualitative assessment? Further clarification on this matter would be appreciated</p> <p>Suggestion:</p> <p>We suggest to clearly specify if the second assessment mentioned in this paragraph is referred to the standard formula (as mentioned in Annex paragraph 2.72) , and we propose the following rewording:</p> <p>Proposed rewording:</p> <p>“provided that the undertaking concerned also performs the assessment based on standard formula approach for preparing for the eventuality that the application to use the internal model...”</p> <p>Suggestion2:</p> <p>Moreover we would propose to adopt a “phase-in” approach, postponing this request for a double assessment to the second FLA dry run foreseen in 2015, by accepting a qualitative assessment for the first dry run in 2014.</p> <p>Question:</p> <p>As per comments in 1.25, assume that if you are able to perform the 2014 assessment (based on 2013 year end) on a UK ICA basis, this ICA calculation must be calculated in the internal model for which you are seeking approval or based on existing model (e.g. excel spreadsheet, etc...)?</p> <p>If so, does this require all elements of the assessment to have been calculated through the Internal Model (i.e. Q1 – Q4 calculations and year end calculation and projected capital calculations) or is it permissible that</p>	<p>This will be clarified in the Guidelines.</p>
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			elements of this assessment were performed in the internal model (e.g. just the year end assessment)? Further clarification on this matter would be appreciated. If undertakings use an IM do they need to use it for all the elements of the FLA or could they use it for some elements (e.g. for OSN calculation, not for projections)?	
257.	DIMA (Dublin International Insurance & Management)	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.	Please refer to the resolution to comment 253
259.	Groupe Consultatif Actuariel Européen	1.28	<p>In case of a pre-application for an internal model, not only the insurer has to conduct calculations according to the standard formula, but the ORSA itself has to be conducted with the standard formula and with the internal model approach. This is too heavy for preparatory measures of S2.</p> <p>It is dissatisfactory that Insurers applying for internal models should be required to have a detailed "Plan B" assessment assuming their model fails to get approval.</p> <p>It would be preferable for such insurers whose models are unlikely to achieve approval to be identified at an early stage and they could concentrate on the Standard Formula rather than a model that may not be successful. Relegating the SII regulatory capital aspects of the ORSA / FLA into the later part of the preparatory phase would allow further time for such a model assessment by NCAs to be applied.</p>	Please refer to the resolution to comment 253.
261.	Institut des Actuaire	1.28	In case of a pre-application for an internal model, not only the insurer has to conduct calculations according the standard formula, but the ORSA itself has to be conducted with the standard formula and with the internal model approach. This is too heavy for preparatory measures of S2.	Please refer to the resolution to comment 253.
262.	Insurance and Reinsurance	1.28	Interim measures should focus on the preparedness of internal models instead of the standard formula for undertakings engaged in the pre-	Please refer to the resolution to comment

	Stakeholder Group (IRSG)		application process.	253.
263.	Insurance Europe	1.28	Double use of internal model and standard formula penalizes undertakings especially in the preparatory phase. Interim measures should focus on the preparedness of internal models instead of the standard formula for undertakings engaged into that process. After approval than the NCA could require an estimate of the Solvency Capital Requirement determined in accordance with the Standard Formula (article 112 of the Directive).	Please refer to the resolution to comment 253.
264.	International Underwriting Association of London (IUA)	1.28	It is not appropriate that companies developing their internal model should also be expected to calculate the standard formula at this stage. We believe that NCAs should seek a less onerous alternative or a simple best estimate.	Please refer to the resolution to comment 253.
265.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.28	Please refer to point 1.8.	Please refer to the resolution to this comment.
266.	ROAM- Réunion des Organismes d'assurance mutuelle	1.28	L'ORSA pouvant conduire à l'utilisation d'outils quantitatifs autres qu'un modèle interne (ce qui est suggéré pour les entreprises n'ayant pas de modèle interne), nous recommandons de laisser la possibilité d'utiliser un modèle interne, même s'il n'a pas fait l'objet d'une validation par l'autorité nationale compétente.	It is not the intention of these Guidelines to forbid this.
267.	The Bermuda Monetary Authority (BMA)	1.28	What does EIOPA envisage for groups based in third countries and, in particular, where that country is in the first wave of countries seeking equivalence? Consistent with Article 227 of Directive 2009/138/EC, will the group solvency assessment from 2014, be based on the assessment of the third country supervisor using either a standard formula or an internal model in the process of being assessed for approval? In the case that an internal model is to be used, it is understood that there is an expectation that an assessment preparing for the eventuality that the model be rejected is also required.	When it comes to the solo perspective of the entities not included in the scope of the partial internal model for the group, if their solo SCR will be calculated with the standard formula, these undertakings will have to follow this guideline. Please refer to

				resolution of comment 156
268.	Aon	1.29	Comparing 1.29 and 1.44 does the assessment of whether the risk profile deviates from the assumptions underlying the SCR need to be performed by all firms within the threshold or just firms within the threshold that are not in the pre-application process ?	This assessment is expected by firms within the threshold.
269.	Association of Financial Mutuals	1.29	We would welcome clarity as to when the level 2 and 3 text can be released allowing firms to ensure they meet the Solvency II standard. A statement from EIOPA on whether it can issue some technical standards (similar to the specification for the long term guarantees assessment) and by which date would be helpful.	EIOPA will provide technical specifications which are foreseen for 2014.
270.	ASSURALIA	1.29	It is not clear why a submission of the "Forward Looking assessment of the undertaking's own risk" is expected in 2014 while the supervisory reporting should be submitted as from 2015. All reports should be consistently submitted in 2015.	The first FLAOR should be performed and completed by 2014 and not by 2015.
271.	CNA Insurance	1.29	Please see comments related to Guidelines 14, 15, and 16 (paragraphs 1.42, 1.43, and 1.44).	Noted
272.	CRO Forum and CFO Forum	1.29	We do not support having to perform Solvency II calculations at this stage and would require this paragraph to be deleted.	Noted.
273.	Deloitte Touche Tohmatsu	1.29	Comment: We understand that the rationale of the paragraph is to require to the undertakings not applying for internal model approval to perform the assessment of the deviations of the FLA results with the SII SCR requirements. As it said in paragraph 1.10 and in paragraph 4.14 of the Cover note, both the assessments of continuous compliance and significant deviation of the risk profile in the preparatory phase have to be done "as if" SII quantitative requirements were in force. The prerequisite is that EIOPA will provide the technical specifications for the standard formula on time.	When it comes to the solo perspective of the entities not included in the scope of the partial internal model for the group, if their solo SCR will be calculated with the standard formula, these undertakings will have to follow this guideline

			<p>Suggestion1: Only here the addition « provided that the technical specifications for the calculation of the Solvency II regulatory capital requirements have been provided » is mentioned. We suggest deleting this sentence as it seems superfluous considering the underlying assumption stated above.</p> <p>Suggestion2: Within the CP, it is not specified any deadline for the publications of the aforementioned technical specifications. As we consider this step critical for the application of the FLA requirements, we will suggest providing a preliminary timeline in order to facilitate the undertakings in their activity planning.</p> <p>Comment: In addition to the technical specifications, it would be useful and probably necessary for NCAs and undertakings to have also an updated calibration paper.</p> <p>Question: With reference to groups applying for a partial internal model, does this requirement apply to the entities not included in the partial internal model?</p>	<p>EIOPA considers that this case is also expected to be covered during the pre-application and application processes, and taking into account as well the already existing Guideline 24 in the group forward looking assessment for internal models. As such, EIOPA considers that groups applying for a partial internal model don't have to perform the assessment of the Forward Looking assessment.</p>
275.	Groupe Consultatif Actuariel Européen	1.29	<p>According to this paragraph, an insurer has to assess "significant" deviations. "Significant" has to be explained (what is the level of materiality) by a policy of the AMSB.</p> <p>Generally, we appreciate a level playing field also during the preparatory phase.</p> <p>As suggested for projections of regulatory capital, insurers should have the option to defer this aspect of the assessment until the later part of the preparatory phase as it depends on a calculation that has not been fully specified and which will not apply in regulatory practice during the</p>	<p>It is the undertaking who decides what is significant in its FLAOR.</p> <p>Agree; see new wording.</p>

			preparatory phase.	
276.	Institut des Actuares	1.29	According to this paragraph, an insurer has to assess "significant" deviations. "Significant" has to be explained (what is the level of materiality) by a policy of the AMSB.	See comment 275
277.	Insurance Europe	1.29	Solvency II Pillar I elements should not be part of "Forward Looking assessment of the undertakings's own risk" at this stage (see our general comment).	EIOPA will provide technical specifications.
278.	MetLife	1.29	As per our comment in 1.10 above, there is still considerable uncertainty with regards to the final form of the Solvency II technical provisions and capital requirements. This makes it very difficult, if not impossible, to assess the deviation of the risk profile from the (unfinalised) assumptions underlying the SCR. We propose that undertakings should not be required to include the Solvency II basis in their formal forward looking assessment for these reasons; while at the same time being required to demonstrate to NCAs that they will have the capability to do so once Solvency II is implemented.	EIOPA will provide technical specifications.
279.	MGM Advantage	1.29	We would welcome clarity as to when the level 2 and 3 text can be released allowing firms to ensure they meet the Solvency II standard. A statement from EIOPA on whether it can issue some technical standards (similar to the specification for the long term guarantees assessment) and by which date would be helpful.	See comment 269
280.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.29	Please refer to point 1.8. In our opinion if the undertaking is not able to prove that its risk profile is in line with risk profile defined in Standard Formula (including shocks parameterisation), the undertaking will be required to introduce some sort of Internal Model to meet the FLAOR requirements. This will lead to additional costs and workload for undertakings which will decide to report SCR under Standard Formula.	Not to meet the FLAOR requirements, but the Solvency II requirements, so there is no extra cost involved.

281.	ROAM- Réunion des Organismes d'assurance mutuelle	1.29	<p>(1) Nous tenons à rappeler que cette exigence ne pourra être applicable que lorsque la formule standard sera définitive et publiée car il s'agit d'un processus compliqué et coûteux à implémenter.</p> <p>(2) Pouvez-vous préciser la définition d'une «déviation du profil de risque»? Comment peut-on l'évaluer? Nous pensons que des méthodes devraient être définies.</p>	EIOPA will provide technical specifications.
282.	Groupe Consultatif Actuariel Européen	Section II. General Comments	The Pillar 1 is still not stabilised. It can hardly be expected that the same rules are applied by each country. NCAs might come to different approaches	EIOPA will provide technical specifications for a convergent approach.
283.	International Underwriting Association of London (IUA)	Section II. General Comments	More guidance about the application of proportionality is needed to clarify what is intended and assist compliance.	See Feedback Statement 'proportionality'
284.	AMICE	1.30	<p>Guideline 4 - Proportionality</p> <p>We appreciate that the Guidelines start off with a Guideline on proportionality and that the text includes a clear reference to proportionality as it is defined in the Level 1 text, namely to the nature, scale and complexity of the risks inherent in the business of the undertaking. However, we believe that the proportionality principle should be further developed in the current guidelines. For the interim phase the proportionality principle should also be displayed by allowing small and medium size undertakings to apply different requirements and not only by permitting different ways to fulfil the requirements.</p> <p>Re-drafting suggestion:</p> <p>The forward looking assessment of the undertaking's own risks should be conducted at a comparable level of materiality and proportionality that is in the firm's standard formula or internal model.</p>	See comment 283

285.	ASSURALIA	1.30	More guidance to national supervisors on proportionality could be beneficial during the preparatory phase to achieve more harmonisation.	See comment 283
286.	CRO Forum and CFO Forum	1.30	See general remarks.	Noted
287.	Deloitte Touche Tohmatsu	1.30	<p>Comment: With reference to the statement "Tailored to fit into its organisational structure" We expect that the processes that are put in place at least produce an Own Risk and Solvency Assessment at a (re)insurance regulated entity level and at the level of the group.</p> <p>Rationale for comment: Previously, some firms, have performed a risk and solvency assessment at business function level (based on existing processes) that was not exactly akin to a legal entity basis and to perform this separately at (re)insurance regulated entity level may be a step change to existing processes and procedures. It would therefore be good to confirm this is the requirement.</p>	The Guideline is expected to be applied on a mutatis mutandis basis.
288.	DIMA (Dublin International Insurance & Management)	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.	Agree, see comment 287
289.	ECIROA	1.30	Applying the Proportionality Principle, Captives should have the opportunity to explain their deviations from the strict order of Pillar 2 when they cannot comply as requested	Noted
291.	FEE	1.30	We consider that some smaller or less complex firms will use the principle of proportionality. So, the continued lack of guidance on the issue of	See Feedback Statement

			proportionality leaves open the risk potential of national divergence in this area if some national competent authorities take a "softer" or "harder" position.	'proportionality'
294.	Insurance Europe	1.30	We have doubts if the guidance provided on proportionality will assure harmonisation during the preparatory phase.	See Feedback Statement 'proportionality'
295.	Investment & Life Assurance Group Limited (ILAG)	1.30	We agree that propotionality is very important in the development of the forward looking assessment.	Noted
297.	MetLife	1.30	Agreed.	Noted
298.	MSV Life	1.30	A more detailed framework of assessing proportionality would guide and hopefully reduce the opportunity for uneven interpretation of this principle. For example, is propotionality to be considered from a solo or group level perspective?	See comment 287
299.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.30	This concept is much closer to the idea of Internal Model than the idea of Standard Formula. In our opinion the FLAOR requirements should be consistent with the approach to SCR calculation.	The Guideline does not refer to Internal Model.
300.	ROAM-Réunion des Organismes d'assurance mutuelle	1.30	Nous sommes d'accord avec le fait que le niveau de complexité de détermination du « FLUOR » doit être adapté à l'entité. Cependant, il conviendrait qu'une définition concrète de ce principe de proportionnalité soit établie.	See Feedback Statement 'proportionality'
302.	AMICE	1.31	Guideline 5 – Role of the AMSB: top-down approach The "AMSB" should be considered as a plural term which fits into any type of governance model. While agreeing with the idea that the AMSB responsibility is to ensure that the process has been properly conducted and the conclusions have been monitored, we are concerned that this guideline may preclude how the system of governance is organised and	Please see feedback statement specific; the function of the AMSB is clearer defined in the System of Governance, CP13-008. AMSB is the ulitmative

			<p>implemented in undertakings (this remark will be extensive to the requests on the directing, monitoring performance, internal reporting, feedback or stress testing of the ORSA).</p> <p>It should be noted that the early years of the pre-implementation process will be a period when the forward looking assessment of the undertakings' own risks can neither be used as a management tool nor integrated into the company's strategy. This will be for the "AMSB" to understand and verify the implementation of the "ORSA". In this way, we see the development of the forward looking assessment of the undertakings' own risks as a learning process for the AMSB.</p> <p>NSAs cannot reasonably expect that the AMSB would be able to steer and "challenge" the results as from day one. We suggest that the word "challenge" is replaced by "monitor".</p>	<p>responsible for the FLAOR.</p> <p>Disagree, If not perfect it should nevertheless play an important part.</p> <p>Disagree; the preparatory phase can help to develop such processes and the fulfilment of the tasks.</p>
303.	ASSURALIA	1.31	The role of the administrative, management or supervisory body is very vaguely described in this guideline. A more detailed description of the role would be welcome.	See System of Governance, CP13-008.
304.	CRO Forum and CFO Forum	1.31	<p>AMSB is given an operational role in these texts. In certain countries such as in France, the AMSB is understood as being strategic level supervisory committees (e.g. the "conseil d'administration") which do not have such an almost day to day role in the firms. We suggest that it be made possible to establish a clear delegation from the AMSB to more operational committees (e.g. Company Executive Committee).</p> <p>Furthermore, the reference to Solvency II should be removed and the statement 'should ensure' should be replaced with 'should require that preparation is made for' (see also general remarks)</p>	<p>See Feedback Statement specific 'role of the AMSB'; the AMSB can involve committees, but still has the ultimate responsibility.</p> <p>Disagree; the Guidelines need to make the requirement clear, see feedback statement 'purpose of the preparatory phase'.</p>

305.	Deloitte Touche Tohmatsu	1.31	<p>Question1: Is the definition of AMSB up to each organisation to determine and does each organisation therefore have the flexibility to delegate this downwards as far as they seem fit (e.g. a number of levels below Board)? This question is also relevant when considering the CP on the System of Governance.</p> <p>See also our question at 1.47.</p> <p>Question2: To what extent will NCAs be expected to challenge the discrepancy of what constitutes AMSB (e.g. Board, Executive elements of the Board only, Board sub-committee, Management committee)?</p> <p>Question3: Will a sub-committee of the Board be deemed sufficient representation of the AMSB (i.e. will penetration of information on the FLA to the Board Risk Committee be sufficient or does EIOPA require the full Board (i.e. the decision makers) require to be involved in the process?</p> <p>Comment: Assume that steering the performance of the FLA includes the AMSB taking an active involvement in the setting of the parameters of the assessment (e.g. which stress and scenarios should be used), the timing of the FLA (when in the year), the frequency and the way in which the results are presented (i.e. feedback provided on the form and content of FLA reporting).</p> <p>Rationale for comment: It would be beneficial to gain clarity on the level of engagement expected of the AMSB in the process and the analysis of</p>	<p>Please refer to the resolution to comment 304. The important message is that the highest level takes an active part in the process. Delegation to "a number of levels below" does not seem to be in line with the purpose.</p> <p>What constitutes the AMSB is not at the discretion of undertakings but determined by national law, so there is nothing to challenge.</p> <p>The decisionmakers</p>
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			<p>results and clarity over whether or not this engagement can be delegated.</p> <p>Question4: To what depth is AMSB challenge of the FLA expected? Assume this at least includes challenge over the risks included and of the key conclusions of the assessment.</p> <p>Comment: Assumption is that this challenge should be evidence in some form of documentation. For example, this could be in the form of a sign off or statement in the FLA Report and detailed evidence of the level of steer and challenge provided by the AMSB is included in the ORSA Record (e.g. this could be included in the board minutes)</p> <p>Rationale for comment: Sign off in FLA report would help facilitate AMSB accountability that they have read and understood this. However, the basis of their sign off could be included in the record to ensure the report remains as streamlined as possible.</p>	There is no fit for all answer to that.
306.	DIMA (Dublin International Insurance & Management)	1.31	<p>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 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.</p> <p>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</p>	See comment 304

			introduced will be relatively limited, particularly for those firms that hold themselves to a greater confidence interval standard.	
308.	Insurance Europe	1.31	<p>It is unclear what the expectations of the managing body are in terms of defining the ORSA process. In many undertakings 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 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.</p> <p>Furthermore, it is not realistic to expect the managing body to challenge the SCR calculation until such time as it has regulatory standing.</p>	See comment 304
310.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.31	<p>In our opinion before the implementation phase the local NCA should define the form of evidence which will prove "that the administrative, management or supervisory body of the undertaking takes an active part" in FLAOR (particularly in the area of challenging the FLAOR results and underlying assumptions). Without proper definition of required evidence the FLAOR process cannot be appropriately set-up.</p> <p>Additionally it is worth mentioning that the Article 45 of Solvency II does not require the administrative, management or supervisory body to manage the ORSA process. Due to this fact we would like to propose to require the involvement of the administrative, management or supervisory body only in the assessment of ORSA results.</p>	<p>Disagree. It is up to each undertaking to provide this as they want.</p> <p>See Feedback Statement "Role of the AMSB".</p>
311.	ROAM- Réunion des Organismes d'assurance mutuelle	1.31	<p>(1) Il serait souhaitable que la fréquence minimale d'évaluation par « l'AMSB » soit définie. Sur la base du paragraphe §1.46, nous comprenons que cette évaluation doit être au moins annuelle.</p> <p>(2) Cependant, il convient de noter que les premières années de la pré-implémentation du processus ne pourront être des périodes durant lesquelles le "FLUOR" fera l'objet d'un pilotage en tant que tel, ni d'une</p>	See comment 304

			<p>intégration à la politique et la stratégie de l'entité. Il s'agira en effet pour « l'AMSB » de piloter et comprendre la mise en œuvre du « FLUOR ». Rappelons en effet que l'exercice 2014 demeure une année de définition de principes communs et de pratiques, non de mise en œuvre au sein du marché. Il ne peut être attendu raisonnablement de la part des autorités nationales compétentes que durant la phase de pré-implémentation « l'AMSB » soit en situation de pilotage effective du « FLUOR ».</p>	
313.	AMICE	1.32	<p>Guideline 6 – Documentation</p> <p>EIOPA expects that national competent authorities will engage with entities to put in place the guidelines as from 1st January 2014 (§ 1.6). Undertakings cannot be expected to set up processes and provide results at the same time. Undertakings will therefore need at least 18 months upon EIOPA's adoption of these guidelines in order to implement the necessary systems to support the pre-implementation processes.</p> <p>Expecting all undertakings to have an ORSA policy, a record of each ORSA and an internal report on each ORSA in 2014 is to impose an unrealistic burden on entities.</p> <p>The paragraph from the explanatory text should be incorporated into this guideline:</p> <p>Re-drafting suggestion: “Documenting information does not require that new or fully separate reports or documents are drafted. It can be sufficient to refer to existing documents”.</p>	<p>See Feedback Statement 'purpose of the preparatory phase'</p> <p>The purpose of a policy, a record and an internal report is different but equal important; see specific part of the feedback statement and see Final Report on the draft ORSA Guidelines from July 2012.</p>

314.	Aon	1.32	Will all the documents listed need to be in place in 2014 and if so as a draft or final version?	These papers will be live documents which will evolve over time.
315.	ASSURALIA	1.32	As this guideline is repeated and further explained under guidelines 7, 8 and 9 it is proposed to leave it out of the final text.	Guideline 6 is listing which documentation is required, Guidelines 7, 8 and 9 describes the content.
316.	CRO Forum and CFO Forum	1.32	<p>The reference to Solvency II should be removed and the statement 'should ensure' should be replaced with 'should require the undertaking to make preparations for the following documentation...'</p> <p>We believe the requirements for documentation outlined in the Guideline extend beyond what could reasonably be expected from undertakings at this stage of the implementation process. We also recommend that it be made possible to provide versions in progress under the proportionality principle and general « phasing in » approach.</p>	<p>Disagree</p> <p>See comment 313</p>
317.	Deloitte Touche Tohmatsu	1.32	<p>Comment:</p> <p>1 a) We assume that by 1 January 2014 an organisation's FLA Policy should be effective and any parts of the organisation who are unable to meet the requirements of the Policy have already got their waivers in place from Group.</p> <p>Simply having a Policy that no-one conforms to will not enable a firm to transition towards SII compliance, therefore would like confirmation that the regulations imply having an "effective" policy rather than just having one written. However, flexibility in the form of waivers, will allow elements of the Policy (e.g. Solvency II compliant capital calculations) to be adopted</p>	<p>It is not for a Group to waive Solvency II requirements.</p> <p>Totally agree</p>

			<p>later as and when entities capability is developed and when clarity over regulations is available.</p> <p>Does EIOPA expect the Policy to be effective as of 1 January 2014 or 1 January 2015 (referring to the phase-in mentioned in 4.6 og) . Suggestion is to have written policy as per January 2014 approved by the board that is effective as per January 2015.</p> <p>Comment:</p> <p>1b) We assume that the record of the FLA will contain the detail supporting the FLA so that a suitably qualified third party could come to the same conclusions as presented in the FLA report and that this may be made up of either existing documentation, new documentation or a combination of both.</p> <p>Rationale for comment: We would like confirmation that the principle behind the record has not changed since the last consultation.</p> <p>Question1:</p> <p>1c) Is it possible that the full suite of information expected to be in an FLA report could in fact be in multiple reports that are communicated to the AMSB throughout the year and collectively are known as the FLA Report? Conversely, is it a requirement that the key conclusions from this assessment all have to be in a single document?</p> <p>Question2:</p> <p>1d) As per point (c) above, if an organisation determines that a collection of documents will form the FLA report, will the full scope of these reports be required to be reported externally or just the sections of these reports that pertain to the FLA?</p>	<p>EIOPA will expect the policy to be in effect as of 01.01. 2014 and that it is reflected in FLOUR that is performed during that year.</p> <p>Yes. It will be a combination of both. Completely existing documentation will de facto be impossible and completely new would be a waste of resources and thus unrealistic in practice.</p> <p>The presumption is that the AMSb at one point in time "signs off " the process which in most cases will be in the shape of a single document. This document is in turn expected to be the basis for the report to the supervisor.</p> <p>The report to the</p>
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				supervisor must be a precise description of process and findings. The supervisor does not expect to see nor want to see all underlying documentation that have gone in to the process
318.	Groupe Consultatif Actuariel Européen	1.32	<p>The required report on the undertaking's own risks is comprehensive and overlaps with other existing reports (e.g. report of the actuarial function, documents regarding the internal model certification). Therefore it should be possible to include these reports as part of the report on the undertaking's own risks (e.g. via cross reference). If this is not the case, strict consistency between the report on the undertaking's own risks and the other reports must be safeguarded."</p> <p>The guideline should be flexible enough to allow the undertaking to combine documents where it makes sense to do so. For example we can foresee cases where the internal and supervisory report would be the same. This is discussed in the explanatory test and would be usefully included in the guideline proper.</p>	<p>The reporting to the supervisor is extensively discussed and described in EIOPA papers on ORSA and Reporting which is also applicable in the preparatory phase.</p> <p>Agree</p>
319.	Insurance Europe	1.32	We believe the requirements for documentation outlined in the Guidelines go beyond what could reasonably be expected from undertakings at this stage of the implementation process. We recommend that it be made possible to provide versions in progress under the proportionality principle and general « phasing in » approach.	Disagree, please refer to comment 313
320.	Investment & Life Assurance Group Limited (ILAG)	1.32	We agree that documentation is necessary although we challenge whether documentation is needed after every single assessment.	Disagree.
322.	Nordea Life &	1.32	We believe that the requirement to produce an ORSA record during the	Disagree, see comment

	Pensions		preliminary period is overly onerous given the requirement to produce the ORSA policy, annual ORSA report and supervisory ORSA report. We see this as overly burdensome during the preliminary period and should be re-introduced once the final guidelines are implemented.	313
323.	ROAM- Réunion des Organismes d'assurance mutuelle	1.32	<p>1) Escompter pour 2014 que l'ensemble de ces éléments puissent être établis par les entités et fournis aux autorités nationales compétentes revient à imposer une charge irréaliste sur les entités. Rappelons que durant l'exercice 2014 il est attendu par EIOPA que les autorités nationales compétentes dialoguent avec les entités pour établir des méthodes et des pratiques (§1.6). On ne peut en même temps établir ces méthodes et fournir leur résultat. Aussi nous comprenons que ce qui est décrit ici concerne le processus cible et non celui attendu durant la phase de pré-implémentation.</p> <p>Par conséquent, il serait plus pertinent de faire en sorte que ces attentes de EIOPA soient exprimées au moins deux ans après le lancement du processus de pré-implémentation.</p> <p>(2) Nous soulignons que EIOPA exprime dans plusieurs documents de nombreuses attentes en termes de "policies". Ces attentes semblent se recouper d'une expression de besoin à l'autre. Il serait souhaitable que EIOPA éclaire le marché en arrêtant une liste synthétique des "policies" attendues dans le cadre de la réforme, de leur contenu, et de leur date de mise en oeuvre dans le cadre du processus de pré-implémentation.</p>	See comment 313
325.	AMICE	1.33	<p>Guideline 7 – ORSA policy</p> <p>It should be made clearer that there is no need to develop a self-standing ORSA policy but to develop an ORSA policy as part of the risk management policy. References to other documents should be therefore possible.</p>	Agree; see feedback statement specific comments

			<p>The following amendments should be incorporated into the guidelines:</p> <p>a) a high-level description of the processes and procedures in place to conduct the forward looking assessment of the undertaking 's own risks;</p> <p>b) a consideration of the link between the risk profile, the approved risk tolerance limits and the overall solvency needs; This requirement will not be applicable should there be no agreement on Omnibus II by the end of 2013.</p> <p>c) Information on:</p> <p>(i) how the stress test, sensitivity analysis or reserve stress testing are to be performed and how often they are to be performed.(re-drafting suggestion) This requirement will only be applicable should there be an agreement on Omnibus II and the Level 2 Delegated Acts are published by the European Commission by the end of 2013.</p> <p>Undertakings should be allowed to provide information about the stress tests, sensitivity analysis or reserve stress tests conducted under Solvency I principles or/and on a qualitative basis only should there be no agreement on Omnibus II and the Level 2 Delegated Acts are not available. Proportionality has to be integrated. In any case, it would be useful if EIOPA can further detail what is to be achieved in terms of risk management rather than how it is to be performed.</p> <p>We would also like to underline the strong links that exist between the ORSA process and the system of governance, particularly regarding the role of "AMSB". The extent to what some responsibilities lie within the Board and some others fall within the General Management or any other existing body will only be defined in the transposition into national law.</p>	<p>EIOPA leaves it to the undertaking to provide a description to the level they consider appropriate and NCAs will then assess whether they agree that it is sufficient.</p> <p>See Feedback statement specific comments</p>
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326.	ASSURALIA	1.33	<p>The policy requirements for the forward looking assessment of the undertaking's own risks are more detailed than the ones described in the ORSA principles.</p> <p>Technical specification of the approach used for the forward looking assessment of the undertaking's own risks should not be part of the policy for the forward looking assessment which should include only general aspects of the risk assessment without focusing on specific elements of each record.</p>	<p>EIOPA has based the preparatory Guidelines on the Final Report on the draft ORSA Guidelines from July 2012 and has not deviated in the general section.</p>
327.	CRO Forum and CFO Forum	1.33	<p>See our general remarks: the reference to Solvency II should be removed and the statement 'should ensure that' should be replaced with 'should require that preparatory steps are taken for the AMSB of the undertaking to approve the documentation setting out the principles, procedures and controls for the forward looking assessment.... These documents should include at least...'</p> <p>In addition, we would make the following observations:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The details specified for inclusion in a « Policy » include a lot of descriptive elements rather than high-level principles. This is a procedure not a policy. A more principle-based formulation of the guideline should be used instead. <input type="checkbox"/> We interpret the purpose of point b) as being a consideration of the current risk position against the approved risk tolerance limits. <input type="checkbox"/> We recommend removing from the policy the "justification of it's adequacy particularly taking into account the undertaking's risk profile 	<p>Disagree</p> <p>See comment 326</p> <p>Partially agree plus its link to the overall solvency needs.</p> <p>The policy sets out what is to be done and is thus the right place to explain why certain</p>

			<p>and the volatility of its overall solvency needs relative to its capital position” as we would expect this type of information / conclusion to be included in a report that describes the outcomes of the forward looking assessment (Internal Report).</p> <p><input type="checkbox"/> We would also recommend removing the data quality standards from the forward looking policy as this would typically be part of the policy on data quality required in the System of Governance.</p>	<p>decisions taken about how the process is undertaken are adequate.</p> <p>References to other policies can be made, see specific comments in the Feedback statement.</p>
328.	Deloitte Touche Tohmatsu	1.33	<p>Comment: As per previous consultation feedback - assume that wider documentation can be cross referred where wider requirements are outlined in other policy or standard documentation (e.g. Data requirements in a Data Governance Policy).</p> <p>Rationale for comment: To avoid duplication of documentation.</p> <p>Question1: With regards to “a consideration of the link between the risk profile, the approved risk tolerance limits and the overall solvency needs” is there any specific way in which this is expected to be achieved? The word “consideration” could be interpreted in the form of a description, or requirements, or guidelines, or cross reference to wider documentation that includes this information. What is the practical implementation of “a consideration of the link”?</p> <p>Question2: Assume the minimum frequency of the assessment is annual. Which would be conditions in which a yearly frequency for the assessment – not considering an ad-hoc assessment in case it is triggered – would not be deemed sufficient?”</p>	<p>Agree</p> <p>Up to each undertaking. The message is that this aspect should be included in the policy</p> <p>It is up to the undertaking to decide when an FLAOR has to be carried out in accordance with Guideline 18 and Article 45.</p>

329.	DIMA (Dublin International Insurance & Management)	1.33	<p>These proposals are particularly prescriptive; this assessment should focus on principles rather than this level of detail.</p> <p>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.</p> <p>Data requirements are better dealt with more generally under governance requirements.</p> <p>Reword c) (i) to read: "...reverse stress test or other relevant analyses are to be..."</p>	<p>Noted.</p> <p>EIOPA agrees that it should also be recorded, but still also part of the policy (which remember is not static as it has to be reviewed on a regular basis).</p>
331.	German Insurance Association (GDV)	1.33	<p>Technical specification of the approach used for the forward looking assessment of the undertaking's own risks should not be a part of the Policy for the forward looking assessment as it includes only general aspects of the risk assessment without focusing on specific elements of each record.</p> <p>It would be more adequate for the requirement (b) to be a part of the Record of each forward looking assessment, as the risk profile and the approved risk tolerance limits can change between two risk assessments. Therefore, analyzing this link requires a description of the concrete risk profile as well as a focus on the current risk tolerance limits and the overall solvency needs at the time of realizing and documenting the risk assessment.</p> <p>Data quality standards are part of the policy on data quality required in System of Governance. Is that a duplication of the same requirement? For this case we assume that referencing is sufficient in the policy?</p>	<p>Please refer to the resolution to comment 133.</p>
332.	Groupe Consultatif	1.33	<p>Guideline 7 requires consideration of the link between the risk profile, the approved risk tolerance limits and the overall solvency needs. The</p>	

	Actuariel Européen		<p>meaning of "approved risk tolerance limits" is ambiguous and should be clarified. In this regard, we note that the terms "Risk Appetite" and "Risk Tolerance" and whether they should be defined for Solvency II purposes is discussed in CP 13/008 (paragraphs 2.55 and 2.56). Cp13/008 appears to leave open the exact meaning of the two terms and hence the potential for ambiguity in Guideline 7.</p> <p>As a board level document, we believe the ORSA policy should focus on principles, and include only an outline of the processes and procedures rather than a detailed description.</p> <p>Under (c) we would suggest adding "or other relevant analysis " between "reverse stress tests" and "are to be performed"</p> <p>To the extent that the reference to "volatility of solvency needs relative to its capital position require" refers to the SII regulatory capital position insurers should have the option to defer this guideline until the later part of the preparatory phase.</p>	<p>Not to be solved in this context</p> <p>Tend to agree</p> <p>EIOPA has changed the wording according to the suggestion.</p>
334.	Insurance and Reinsurance Stakeholder Group (IRSG)	1.33	<p>The specification of "stress tests, sensitivity analyses and reverse stress tests" requires the undertaking to perform defined methods for the assessment. In our view this is too precise and more flexibility should be granted to the undertaking in line with the aim "that the guidelines focus on what is to be achieved by this assessment rather than how it is to be performed" (1.12).</p>	<p>See Feedback Statement specific part</p>
335.	Insurance Europe	1.33	<p>Technical specifications of the approach used for the forward looking assessment of the undertaking's own risks should not be a part of the Policy for the forward looking assessment which should include only general aspects of the risk assessment without focusing on specific elements of each record.</p> <p>It would be more adequate for the requirement (b) to be a part of the Record of each forward looking assessment, as the risk profile and the</p>	<p>In the policy the undertaking should describe what approach it will take in general terms.</p> <p>In each record the undertaking is expected</p>

			<p>approved risk tolerance limits can change between two risk assessments. Analyzing this link requires a description of the concrete risk profile as well as a focus on the current risk tolerance limits and the overall solvency needs at the time of realizing and documenting the risk assessment.</p> <p>On c) we recommend removing from the policy the « justification of its adequacy particularly taking into account the undertaking’s risk profile and the volatility of its overall solvency needs relative to its capital position” as we would expect this type of information / conclusion to be included in a report that describes the outcomes of the forward looking assessment (Internal Report).</p> <p>We would also recommend removing the data quality standards from the forward looking policy as this would typically be part of the policy on data quality required in the System of Governance</p>	<p>in all detail what approach it has taken for this specific FLAOR.</p> <p>Disagree, see above</p> <p>References between policies can be made.</p>
336.	International Underwriting Association of London (IUA)	1.33	This requirement appears overly prescriptive. It would appear better to require specified outcomes rather than lay down how they should be achieved.	Disagree; the policy should show clearly what approaches are taken in general terms.
338.	MetLife	1.33	We note that it may be more practical to include these requirements in more than one document, which together would make up the ORSA policy.	As long as they are easily accessible and properly cross referenced.
339.	MSV Life	1.33	Is the data quality standard related to all company data or only in respect of data feeding into the the forward looking assessment?	In this context the latter.
340.	Munich Re	1.33	<p>c) (i) The explicit requirement for stress tests, reverse stress tests and sensitivities narrows the possible composition of the policy. A more principle-based formulation of the guideline should be used instead.</p> <p>Specific and detailed technical requirements should be avoided in this Guideline to assure for a principle-based approach.</p>	See comment 336

341.	ROAM- Réunion des Organismes d'assurance mutuelle	1.33	<p>1) Il conviendrait que EIOPA éclaire le marché en arrêtant une charte définissant de manière univoque l'ensemble des concepts attendus dans le cadre de l'ORSA. De plus, il conviendrait que EIOPA constitue une charge synthétique des attentes en termes de gestion des risques (y compris ORSA et Pilier 1), laquelle serait la base univoque de mise en œuvre de ce processus au sein de l'ensemble du marché commun.</p> <p>(2) Nous soulignons par ailleurs les liens forts qui existent entre le processus ORSA et la gouvernance, notamment en ce qui concerne le rôle de « l'AMSB ». Par conséquent, il conviendrait d'attendre la transposition en droit local afin de déterminer quelles responsabilités échoient au Conseil d'administration de celles qui relèveraient de la Direction générale ou de tout autre organe.</p> <p>Aussi, nous soulignons que la vision présentée ici concerne une vision cible, qui ne peut être attendue dès la mise en pré-implémentation.</p>	See comment 336
342.	RSA Insurance Group	1.33	The purpose of stress tests, sensitivity analyses and reverse stress tests is broader than their use in the forward looking assessment. For example, they are key elements in the validation of the internal model. Similarly, data quality standards apply to a whole range of processes and are not specific to the forward looking assessment. Accordingly, this information may more appropriately be provided in documentation other than the policy on the forward looking assessment. The guideline should indicate that this information need be included in this policy only to the extent that it is not included in other documentation.	See comment 338
344.	AMICE	1.34	Guideline 8 – Record of each forward looking assessment of the undertaking's own risks	As EIOPA will provide technical specifications the FLAOR can be done independently from the

			<p>Should there be no agreement on Omnibus II and the Level 2 Delegated Acts are not published by the end of 2013, it should not be expected from undertakings to invest in IT or other resources fully dedicated to ORSA documentation (including records).</p> <p>Further guidance is needed on the maximum period undertakings should keep the ORSA internal documentation (one year, two years, three years).</p>	<p>outcome of OMD II discussions; see Feedback Statement general comments.</p> <p>This is outside the scope of the issue and subject to national law.</p>
345.	ASSURALIA	1.34	<p>While the Guideline states that the undertaking "appropriately evidences and internally documents each forward looking assessment of the undertaking's own risks and its outcomes", the Explanatory Text (section 3.18) sets out a list of additional points with significant detail, e.g. "[must include] Details of any planned relevant management actions, including an explanation and a justification for these actions, and their impact on the assessment".</p> <p>The Explanatory Text should only serve to provide additional guidance and not to set out additional requirements.</p>	<p>Agree; this is the purpose of the Explanatory Text; see in addition Feedback Statement 'Explanatory Text'</p>
346.	CRO Forum and CFO Forum	1.34	<p>As noted above, the Explanatory Text should be treated as providing additional guidance and not as a vehicle for setting out additional mandatory requirements as seem to be applied here to Guideline 8.</p> <p>See also general remarks, the reference to Solvency II should be removed and the statement 'should ensure that' should be replaced with 'should require that the undertaking take preparatory measures to appropriately evidence....'</p>	<p>See comment 345</p>
347.	Deloitte Touche Tohmatsu	1.34	<p>Comment:</p> <p>Assumption is that as the FLA record will leverage, where applicable,</p>	<p>Agree.</p>

			existing documentation of the processes that the FLA touches upon (strategy, risk, solvency assessment processes). Organisations are keen to leverage existing documentation where possible.	
348.	DIMA (Dublin International Insurance & Management)	1.34	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.	The undertaking can decide what time horizon it wants to use in its FLAOR. But this does not exempt that it is expected that the FLAOR will be performed annually.
350.	Insurance and Reinsurance Stakeholder Group (IRSG)	1.34	Full documentation of the record of each ORSA process should be required only when the process is fully implemented under Solvency II, considering the overall development until the effective entry in force.	Disagree; EIOPA believes that for preparatory purpose and development the documentation is very important.
351.	Insurance Association of Cyprus	1.34	While the guideline requires appropriate evidencing and internal documentation of the ORSA and its outcomes, the explanatory text elaborates by outlining in substantial detail 12 elements that the record must contain. The language used in the explanatory text appears more prescriptive than simply illustrative. EIOPA should ensure that the explanatory text should be precisely and strictly an explanatory text, and should not expand the requirements of the guidelines.	See comment 345.
352.	Insurance Europe	1.34	Full documentation of the recording of each ORSA process should be required only when the process is fully implemented under Solvency II, considering the overall development until the effective entry in force. Also the Explanatory Text should be treated as providing additional guidance and not as a vehicle for setting out additional mandatory	See comment 350 See comment 345

			<p>requirements as seem to be applied here.</p> <p>While the Guideline states that the undertaking “appropriately evidences and internally documents each forward looking assessment of the undertaking’s own risks and its outcomes”, the explanatory text (section 3.18) sets out a list of additional points too detailed, e.g. “[must include] Details of any planned relevant management actions, including an explanation and a justification for these actions, and their impact on the assessment”. The text is also written as a requirement rather than illustrative.</p> <p>The Explanatory text expands on the assessment of the continuous compliance with the requirements on regulatory capital and technical provisions as well as of the deviation of the risk profile from the assumptions underlying the SCR calculation, to be included in the record of each forward looking assessment of the undertaking’s own risks, which is only applicable for the undertakings and groups falling within the thresholds.</p>	
353.	International Underwriting Association of London (IUA)	1.34	<p>We believe that the firm should evaluate for itself what data it requires to prepare its assessment. Pending the full implementation of Solvency II, NCAs should not require higher standards and granularity of evidence and data than a firm actually needs to prepare its assessment. Moreover, firms may rightly not wish to engage in constant in-depth re-evaluation of strategy.</p>	<p>The record of each FLAOR is not equivalent to the more strategy orientated policy. It is the undertaking’s decision what data should be used for the FLAOR assessment. The NCA concerned might challenge the decision where appropriate.</p>
355.	Lloyd’s	1.34	<p>As noted above, the Explanatory Text should be treated as providing additional guidance and not as a vehicle for setting out additional mandatory requirements as seem to be applied here to Guideline 8.</p>	<p>See comment 345</p>

356.	Polish Chamber of Insurance	1.34	Is the record of each FLA needed? In our understanding the record of each FLA requires also a record of each change of assumption during the ORSA process. All relevant information on assumptions finally selected and results obtained would be included in the internal report or supervisory report. We believe that the record of each FLA process is unnecessary documentary burden.	Yes. An audit trail is required. The record contains a lot more information than what is included in the internal or supervisory report.
357.	ROAM- Réunion des Organismes d'assurance mutuelle	1.34	Il conviendrait que EIOPA définisse de manière univoque la durée maximale durant laquelle les éléments de documentation du « FLUOR » doivent être archivés, et sous quelles conditions (1 an ? 2 ans ? 3 ans ?).	This is dependant on national (corporate) law and not subject of these Guidelines.
359.	AMICE	1.35	Guideline 9 – Internal report on the forward looking assessment of the undertaking’s own risks As no specific structure is prescribed for the ORSA supervisory report, we propose to add the following sentence “Internal report on the forward looking assessment of the undertaking’s own risks is deemed suitable for supervisory reporting purposes”.	This could well be, but not as a general rule; see feedback statement specific comments.
360.	ASSURALIA	1.35	A more detailed description of “all relevant staff” would be welcome. More guidance would be useful on the difference between the internal report received by the AMSB and the information to be communicated by the AMSB to the relevant staff (results and conclusions).	That is different from undertaking to undertaking and for each undertaking to decide. The AMSB is not just a passive recipient of the internal report it needs to approve the internal

				report. What is to be communicated is what staff needs to know for the performance of its tasks. It is for each undertaking to decide and can very well be identical with the internal report. See specific comments in the Feedback statement.
361.	CRO Forum and CFO Forum	1.35	<p>We understand Article 45 of the Framework Directive does not require the AMSB to approve the Own risk and solvency assessment, nor does it require the AMSB specifically to communicate the results to all relevant staff. We would require this guideline to be more in line with Article 45.</p> <p>Furthermore, reference to Solvency II should be removed and the statement 'should ensure that' should be replaced with 'should require that the undertaking takes steps to communicate....'.</p>	See Solvency II Directive 45 (4)
362.	Deloitte Touche Tohmatsu	1.35	<p>Question1: Can the AMSB delegate the responsibility of assessing which information is relevant to which staff? Does the AMSB have to physically communicate this information themselves or can this be delegated?</p> <p>Question2: In case of a single document for an insurance group, the AMSB of the entity will maintain the responsibility of the FLA assessment related to the entity; therefore the group is expected to provide the entity's AMSB with the FLA documentation.</p> <p>Will the group be allowed to provide the entity with only the information related to it, without disclosing the overall group report? Will EIOPA expect a second document to be prepared or could it be an extract of the single</p>	<p>Please refer to the Final Report on ORSA from 2012. The AMSB should decide what they need to share with whom. How this is effected is up to the undertaking.</p> <p>Yes, considering that the AMSB of the entity should have all the information related to it and is responsible for having its risks covered</p>

			document?	in the single FLAOR document. The requirement is to send the single FLAOR document to the group supervisor. The requirement on internal communication of FLAOR document should follow Guideline 9.
364.	German Insurance Association (GDV)	1.35	The AMSB ensures that relevant information is communicated to the relevant staff. We understand, that the communication of the relevant information not necessarily have to be performed by AMSB. Further we understand that only relevant information has to be communicated. The guideline should be rephrased for better clarification.	Please refer to the resolution to comment 362. The Guidelines does not prescribe that the whole report needs to be communicated because this may not be relevant and only singles out those parts to be communicated as a minimum that will always be relevant. The AMSB does not do the tasks by themselves, but the AMSB remains the ultimate responsible for it.
365.	Groupe Consultatif Actuariel Européen	1.35	Guideline 9 says "once the process and the results have been approved by the AMSB". As the process would necessarily be approved as part of the ORSA/FLA policy, it would be clearer just to say "once the results have been approved by the AMSB".	Process here means the the specific assessment concerned.
367.	Insurance and Reinsurance	1.35	This report has to be communicated to specifically interested classes of stakeholder including working council or any equivalent body.	See Feedback Statement specific

	Stakeholder Group (IRSG)			comments by IRSG
368.	Insurance Europe	1.35	<p>We consider that Article 45 of the Framework Directive does not require the AMSB to approve the Own risk and solvency assessment, nor does it require the AMSB specifically to communicate the results to all relevant staff.</p> <p>The appropriate communication of ORSA results to all relevant staff, after ORSA results approval, shall be performed in order to be tailored to the undertaking's system of governance and its risk management system via adequate communication process; that does not necessarily have to be performed by the AMSB. The AMSB only has to steer that the results are communicated to all relevant staff. As such, we would suggest that this guideline is rephrased to be more in line with Article 45.</p> <p>It is also unclear if the information received by the AMSB would correspond exactly to the information communicated to all relevant staff. The aim should be that relevant information is communicated to the relevant staff.</p>	<p>Disagree; the AMSB remains the ultimate responsible; see comment 364.</p> <p>Agree. But the ASMB should provide strategic steering on the undertaking's policy for transparency and information sharing with the employees.</p> <p>Please refer to the Feedback Statement specific comments.</p>
370.	MGM Advantage	1.35	<p>We consider the requirement to communicate the results of the FLA to « all relevant staff » is a good component of risk management. However it would be useful to understand the scope of staff that EIOPA consider to be appropriate.</p>	<p>This is for the undertaking to decide.</p>
371.	ROAM- Réunion des Organismes d'assurance mutuelle	1.35	<p>Même remarque que pour le §1.32.</p>	<p>Noted</p>
373.	Aon	1.36	<p>Will an ORSA report need to be submitted in 2014? What is the (strict) rationale for providing the report 'within 2 weeks' of completing the assessment?</p> <p>If firms meet the threshold criteria but are not using an internal model</p>	<p>Yes. Because Supervisory authorities will want it without undue delay.</p>

			what basis shall they use to calculate regulatory capital given Pillar 1 standard formula calculations are not yet finalised?	
374.	Association of Financial Mutuals	1.36	<p>We presume that the two weeks stated is not after the date that the calculations are complete, but two weeks after the AMSB has signed off the forward looking assessment.</p> <p>Some consideration should also be given around the need for the ORSA to be a process rather than just a report. In practice therefore there may be a myriad of documents involved.</p> <p>Further, it is unclear on what basis the capital requirements should be carried out.</p>	<p>Yes.</p> <p>Therefore after the ASMB has signed off.</p>
375.	ASSURALIA	1.36	<p>It is not clear on what basis the submission deadline of 2 weeks has been decided, neither what "concluding the assessment" means. 2 weeks is a very strict deadline for a preparatory phase.</p> <p>A presentation of the used methods and main assumptions (b) is very burdensome and should be limited to a brief description or excluded from the supervisory report and available upon request.</p> <p>The requirement (c) seems premature for 2 reasons: the supervisory reporting is not required as from 2015 (or even later); and a comparison with the available own funds is useless since companies are expecting the application of the grandfathering procedure during the first (10) years of Solvency II. Therefore it is proposed not to include the requirement (c).</p>	<p>Please refer to the resolution to comment 374.</p> <p>It must be sufficiently detailed to allow the supervisor to form an opinion.</p> <p>Grandfathering does not exempt undertakings from assessing own funds.</p>
376.	CNA Insurance	1.36	Please see comments related to Guideline 14 (paragraph 1.42).	Noted
377.	CRO Forum and CFO Forum	1.36	In principle, we strongly disagree with the second part of this requirement which describes somewhat the content of an ORSA report to the supervisor (see comments paragraph 1.3). As stated in the introduction and as outlined by the CRO Forum position paper on the ORSA report, by nature, an ORSA supervisory report should reflect the firm's internal ORSA report ,	It describes minimum content; "at least which is what is needed for the supervisor to form an opinion about

			<p>hence its structure should be flexible and dictated by the firm's approach to ORSA. We would recommend to delete this paragraph.</p> <p>Furthermore, we feel that at this stage of the implementation phase 2 weeks to provide a supervisory report is an unrealistic time frame. We reiterate our concern that no additional supervisory actions should be required based on these figures that would otherwise not have been taken.</p>	<p>process and content".</p> <p>It is the undertaking who decides if the internal report should be the same as the supervisory report.</p> <p>Please refer to the Feedback Statement 'Enforcement measures and supervisory action'. Two weeks after sign off by the AMSB is seen as manageable.</p>
378.	Deloitte Touche Tohmatsu	1.36	<p>Question 1: See 1.32, if a firm can use a collection of reports to communicate the conclusions of the assessment, does this require each report be submitted within 2 weeks of AMSB approval or after all reports have been concluded upon? What is the rationale for the time period 2 weeks?</p> <p>Question 2: Although the conclusions of the supervisory report will align with the conclusion of the internal report, additional descriptions or explanations may be desired in supervisory reporting. Does the 2 weeks start from the approval of the Supervisory report regardless of the internal report closing?</p> <p>Comment With reference to point c), we understand that the comparison requested are based firstly on a qualitative assessment, and only if material by a quantitative one as explained in Annex paragraph 2.66 – 2.69.</p> <p>Suggestion:</p>	<p>The information submitted may be taken from different reports but there is only one report to the supervisor.</p> <p>No, there is no extra time for the supervisory report.</p> <p>Yes.</p> <p>EIOPA has changed the</p>

			This explanatory text could be moved from the annex to the main body of the text as an explanatory note to the guideline.	text to include the qualitative first step in the Guideline.
379.	DIMA (Dublin International Insurance & Management)	1.36	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.	This is about supervisor's assessment.
380.	FEE	1.36	It does not become completely clear to us when the two week window for submission of the ORSA report begins as this depends of what is understood by « after concluding the assessment ». This might be when the draft report is going to the board but also when the board is challenging it ; so, more guidance on this is needed	The logic approach is 2 weeks after the process is ended, i.e. after the board has signed off.
381.	German Insurance Association (GDV)	1.36	<p>It is not clear why a submission of "Forward Looking assessment of the undertakings's own risk" is expected in 2014 while the supervisory reporting should be submitted in 2015. All reports should be consistently submitted in 2015.</p> <p>The requirement (c) requires Solvency Pillar I-calculations an should not be part of the supervisory report (see our general comment).</p> <p>2 weeks to provide a supervisory report is tight schedule, especially for groups. Concerning supervisory reporting 6 weeks are added to the annual and quarterly submission deadlines.</p>	<p>Please refer to the Final Report, general comments.</p> <p>The requirement is to provide the report to supervisor 2 weeks after the conclusion of the assessment. Nevertheless there is a great flexibility for the undertaking and for the group to perform and conclude the assessment at any moment during the year.</p>
382.	Groupe	1.36	The interconnectedness with other reports (e.g. the report of the actuarial	

	Consultatif Actuariel Européen		<p>function) should be taken into account.</p> <p>Guideline 10 requires that an undertaking submits the supervisory report within 2 weeks of concluding the assessments. Precisely what constitutes conclusion of assessments must be clarified.</p> <p>We recommend a definition of “conclusion of assessment” consistent with the explanatory text which refers to “when the AMSB has reviewed and approved the outcome of the assessment” including the regulatory report .</p>	EIOPA has changed the wording to clarify in the Guideline what “Conclusion of the assessment” means.
384.	Insurance Association of Cyprus	1.36	<p>We believe that the 2-week deadline is too short, especially during the preparatory stage. We consider that a period of at least 4 weeks would be appropriate.</p> <p>In line with our general comments, we do not support the requirement that an ORSA report be submitted to supervisors by the end of 2014.</p> <p>We do not support the requirements that ask for Solvency II pillar 1 calculations.</p>	See comment 377
385.	Insurance Europe	1.36	<p>We feel that at this stage of the implementation phase 2 weeks to provide a supervisory report is an unrealistic time frame.</p> <p>It is also not clear if a submission of the “Forward Looking assessment of the undertakings’s own risk” is expected in 2014 while the supervisory reporting should be submitted in 2015. All reports should be consistently submitted in 2015. The requirement (c) is critical because it requires Pillar I-calculations. See 1.42 and our general comments.</p> <p>It is unclear if and what actions EIOPA expects national supervisors to take based on the report. We reiterate our concern that no additional supervisory actions should be required based on these figures that would otherwise not have been taken.</p>	<p>See comment 377</p> <p>EIOPA sees it as important preparation to perform a first FLAOR during 2014 and to submit a report on this.</p> <p>See Feedback Statement ‘Enforcement measures and</p>

			<p>Furthermore, (b) is very burdensome. It should be limited to a brief description or excluded from the supervisory report and available upon request.</p> <p>The requirement (c) seems premature for 2 reasons: the supervisory reporting is not required as from 2015 (or even later); and a comparison with the available own funds is useless since undertakings are expecting the application of the grandfathering procedure during the first (10) years of Solvency II. Therefore it is proposed not to include the requirement (c).</p>	<p>supervisory action'</p> <p>(b) is necessary for the supervisors to challenge the FLAOR and assess if it is appropriate to the undertaking concerned.</p> <p>Disagree; the preparatory Guidelines apply from 1.1.2014</p>
386.	International Underwriting Association of London (IUA)	1.36	The production of the ORSA as a company-owned management tool should not be subject to prescriptive rules.	Disagree; the requirements need to enable supervisors to challenge the FLAOR
387.	Investment & Life Assurance Group Limited (ILAG)	1.36	The two week deadline is too short and should be linked to the AMSB final sign off and be one month after this date.	The link is to the sign-off as should be obvious from Guideline 9.
389.	MetLife	1.36	<p>We agree that the report should present items (a) and (b).</p> <p>As per our comments in 1.9, 1.10 above, we do not agree that undertakings should be required to comply with requirement (c).</p> <p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA</p>	See comment 76

			<p>guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.</p>	
390.	MGM Advantage	1.36	<p>We presume that the 2 weeks is not after the date that the calculations are complete but rather two weeks after the AMSB has signed off the forward looking assessment.</p> <p>Some consideration should also be given around the need for the ORSA to be a process rather than just a report. In practice therefore there may be a myriad of documents involved.</p> <p>Further, as per our General Comment, it is unclear on what basis the capital requirements should be carried out.</p>	<p>Correct.</p> <p>EIOPA will provide technical specifications.</p>
391.	Munich Re	1.36	<p>The interconnectedness with other reporting formats and deadlines should be taken into account.</p>	<p>Partially agree; FLAOR is mostly decided by the undertaking itself.</p>
392.	Nordea Life & Pensions	1.36	<p>Subject to cover note 4.12 to 4.15 (Connection to SII Pillar I requirements)</p>	<p>Noted</p>
393.	Powszechny Zakład Ubezpieczeń Spółka	1.36	<p>In our opinion the requirements of supervisory reporting, distorts the declared objective of earlier implementation of the guidelines and put much more emphasis on quantitative results of FLAOR than on the fact that the FLAOR should be predominantly applied to the undertakings</p>	<p>FLAOR is not only qualitative but as well quantitative.</p>

	Akcyjna		<p>internal processes like strategic planning (business planning, asset management, product development process). We do not understand why the comparison between overall solvency needs (FLAOR) and a regulatory capital requirement (SCR) is necessary. This type of comparison may lead to inappropriate conclusions and create confusion.</p> <p>As far as the concept of FLAOR is concerned there should be a clear differentiation between SCR reporting and FLAOR reporting. We believe that the local NCA should rather focus on the inclusion of FLAOR process in undertaking's strategic planning than on FLAOR quantitative results. Moreover there is a risk that the local NCA will use the quantitative results to indirectly influence the undertaking for example through the regulation/recommendation regarding dividend payment or capital add-on. In our opinion in such case the undertaking would be required to perform a double reporting: the results of SCR (based on Standard Formula or Internal Model) and the results of FLAOR. What is questionable for us is which part of the quantitative reporting (SCR or FLAOR) will be perceived by NCA as over-riding.</p>	Please refer to the Final Report general comments
394.	ROAM- Réunion des Organismes d'assurance mutuelle	1.36	Afin de permettre l'uniformisation de la communication financière de la part des entités, il serait raisonnable que EIOPA établisse un plan détaillé indicatif du rapport « FLUOR ».	Disagree; it is the undertaking who decides on the format of the report.
395.	RSA Insurance Group	1.36	The requirement to submit the supervisory report « within 2 weeks of concluding the assessments » is insufficiently precise. A more practical requirement would be for the supervisory report to be submitted within 2 weeks of it being approved by the board.	Please refer to the resolution to comment 377.
397.	CRO Forum and CFO Forum	Section III. General Comments	It will only be possible to fully comply with Guidelines 11, 14, 15 and 16 (paragraphs 1.37-1.38, 1.42-1.44) following provision of final Solvency II Pillar 1 guidance, Further to our general comments we feel it is not necessary to introduce these guidelines in advance of Solvency II coming into force.	The assessment of the overall solvency needs is seen to be relatively independent of the final outcome of pillar I and is therefore requested even in the FLAOR

				<p>during 2014. Different valuation and recognition basis than those in Solvency II can be used for the overall solcvcncy needs.</p> <p>The latter assessments (see Guidelines 14;15;16) are only applicable after technical specifications are made available by EIOPA. We believe that it is important for the preparation for Solvency II for undertakings to start their assessment for these Guidelines.</p>
398.	Deloitte Touche Tohmatsu	Section III. General Comments	<p>Generally we would like greater clarity on the role of the different valuation and recognition bases described in 1.37 when point 1.42 seems to imply that a strict Solvency II calculation is necessary. More detailed comments on this issue can be found in the commentary to points 1.37 and 1.42.</p> <p>Based on the Guidelines we potentially see that companies could be doing three sets of capital projections: 1) using their internal methodology, which can be different from Solvency II principles, 2) using a Solvency II internal model in the pre-application phase, 3) using the standard formula approach. If this were the case, this would be very burdensome and penalising companies for using their own internal approach or even an internal model.</p>	<p>The basis is Solvency II valuation, i.e. fair value. With use of any other bases the onus is on the undertaking to explain why this is a better solution and how it reconciles when it assesses overall solvency needs. 1.42 is about regulatory capital not about overall solvency needs.</p> <p>For the overall solvency needs an IM user can use the IM in pre-</p>

				application. For the overall solvency needs EIOPA would acknowledge your option 1 or 2 or 3 if deemed appropriate.
399.	Groupe Consultatif Actuariel Européen	Section III. General Comments	The 1st pillar is still not stabilised. Which SCR rules shall be applied: specific rules per country?	See comment 397
400.	Institut des Actuaire	Section III. General Comments	The 1st pillar is still not stabilised. Which SCR rules shall we apply: specific rules per country?	See comment 397
401.	Insurance Association of Cyprus	Section III. General Comments	We do not support the requirements that ask for Solvency II pillar 1 calculations. This would be too burdensome and not appropriate for the preparatory stage. Solvency II pillar 1 should only apply when Solvency II is introduced in 2016.	See comment 397
402.	Insurance Europe	Section III. General Comments	See our general comments.	Noted
403.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	Section III. General Comments	According to this section the undertaking is required to perform the assessment of its overall solvency needs. We believe that the phrase "overall solvency needs" should be precisely defined to avoid the potential risk of misinterpretation.	See Final Report of draft Guidelines for ORSA of 2012
404.	AMICE	1.37	Guideline 11 – Valuation and recognition of the overall solvency needs The requirement to explain how the use of recognition and valuation bases are different from Solvency II ensures a better consideration of the risk profile, tolerance limits and the undertaking's business strategy, imposes the obligation to follow the Pillar I calculations. Additionally, it should be clearly mentioned that different methods can be used and that an internal models are not required.	Noted; see comment 397 Different methods can always be used in order to reflect appropriate the risks profile of the undertaking. The request for an internal

				model is not part of the FLAOR Guidelines
405.	ASSURALIA	1.37	(See general comments) One should not forget that during the preparatory phase the Solvency I requirements and only predefined thresholds for Solvency II interim measures will apply. In this respect, EIOPA indicates in the cover note that it is not appropriate for NCAs to expect that all provisions are met in the same way by all undertakings during the preparatory phase. Accordingly, only the undertakings and groups that fall within that thresholds would be expected to perform Solvency II Pillar I calculations or any quantifications of the impact on the overall solvency needs of using a different recognition and valuation basis.	Disagree; the assessment of the overall solvency needs needs to be performed regardless of the threshold; the threshold only applies to Guideline 14; 15; 16.
406.	CNA Insurance	1.37	Guideline 11, which requires an undertaking to explain how the use of different recognition and valuation bases than those required under Solvency II is more appropriate, requires continuous compliance with Solvency II well ahead of its implementation date, while an undertaking is still required to comply with existing Solvency I standards.	See comment 397
407.	CRO Forum and CFO Forum	1.37	See our general remarks: we see no benefit in performing this comparison with Solvency II requirements at this stage.	Noted; see comment 397
408.	Deloitte Touche Tohmatsu	1.37	<p>Question1: What are the Solvency II valuation bases when Pillar I is not finalized and there is no set of Guidelines for Pillar I? Do we understand correctly from the Cover note points 4.12 – 4.15 that it is assumed that the finalised Level 1 and Level 2 texts will be available in time for the preparation of the first forward looking assesment and a technical specification (and the corresponding information on calibrations) for the calculations will be published?</p> <p>Question2: What is exactly meant by “different recognition and valuation bases”? We</p>	<p>See comment 397</p> <p>The different approaches are not</p>

			<p>understand that for the forward looking assesment insurers are allowed to use a different approach for the quantification of capital needs than defined by Solvency II. Does this cover only the valuation of technical provisions (i.e. issues like different approach to contract boundaries, to risk margin, to matching adjustment, etc.) or also different approaches to the capital calculations (different confidence level from 99.5%, different approach to capital calculation from standard formula, etc.)? Does it also cover a different approach to classifying assets for Own Funds?</p>	<p>covered by "different recognition and valuation bases", but they are still possible as the overall solvency needs assessment is the undertaking's own view of its capital needs.</p>
409.	DIMA (Dublin International Insurance & Management)	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.</p> <p>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.</p> <p>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>	<p>Agree</p> <p>See Feedback Statement 'Purpose of preparatory phase' and comment 397</p>
410.	FEE	1.37	<p>As regards valuation it seems to be required to use Solvency II bases (as in case of using alternative valuation bases the undertaking has to explain why this fits the risk profile better). This seems to be difficult/impossible if the pillar 1 rules will still not exist.</p> <p>In any case the question remains if the Solvency II valuation as basis of the calculation of the overall solvency needs will be required for all undertakings in the preparatory phase or only for those which are within the 80 % market share. In other words : Will there be any simplifications/short cuts for undertakings out of the 80 % threshold which</p>	<p>The undertaking has to freedom to choose the valuation basis for its FLAOR regardless of the final pillar I requirements</p> <p>See comment 405, the</p>

			only have to calculate the overall solvency needs ?	threshold does not apply to the overall solvency needs
411.	Groupe Consultatif Actuariel Européen	1.37	<p>Many UK firms will have a twin target for solvency in the run up to Solvency II. They will need to comply with the UK's Individual Capital Assessment regime and also with the current Solvency I requirements. These two systems may provide a very different result at each point in the FLA. If it is accepted that these firms will continue to be required to do two FLAs under the interim rules until the Solvency II regime commences it should be noted that this is a continued duplication of process and calculations beyond the original expectations.</p> <p>We understand that firms subject to the 80% threshold will have to use Solvency II as their solvency metric and that firms outside this threshold may still need to carry out two separate assessments.</p> <p>If valuation and recognition bases used for the calculation of the overall solvency needs differ from the Solvency II base, only a significant impact on the overall solvency needs should be quantified, i.e. the aspect of materiality has to be considered.</p>	<p>EIOPA does not expect that two FLAOR will be conducted. It is the undertaking who chooses the appropriate valuation basis in dialogue with its supervisor.</p> <p>Disagree see above and comment 405</p> <p>Agree</p>
413.	Insurance and Reinsurance Stakeholder Group (IRSG)	1.37	This guideline is inconsistent with the approach described in the Cover note. By requiring all undertakings to quantify the impact on the overall solvency needs of using different recognition and valuation basis, EIOPA is imposing Solvency II Pillar I calculations to all undertakings.	See comment 397
414.	Insurance Association of Cyprus	1.37	We propose to delete this Guideline, as it effectively requires all undertakings to carry out Solvency II pillar 1 calculations. Solvency II pillar 1 should only apply when Solvency II is introduced in 2016.	Disagree; see comment 397

415.	Insurance Europe	1.37	<p>This requirement is inconsistent with the approach described in the Cover note.</p> <p>In the Cover note EIOPA indicates that considers not to be appropriate for NCAs to expect that all provisions are to be met in the same way by all undertakings during the preparatory phase and for that purpose a number of thresholds was created. Accordingly, just the undertakings and groups that fall within that thresholds would be expected to perform Solvency II Pillar I calculations.</p> <p>By requiring all undertakings to quantify the impact on the overall solvency needs of using different recognition and valuation basis, EIOPA is imposing Solvency II Pillar I calculations to all undertakings.</p> <p>Considering the proportionality principle as well as the supposed flexibility introduced by EIOPA, undertakings and groups should be allowed to use their local recognition and valuation basis which are the basis for their regulatory requirements (Solvency I) , or any other risk measurement approaches, which, in their view, and properly reflect the nature, scale, and complexity of their business. We so would propose to delete this Guideline or only apply it to undertakings within the thresholds established in Guideline 3.</p>	<p>See comment 397 and 405; the threshold does not apply to overall solvency needs</p> <p>The FLAOR is a forward looking exercise in order to prepare for Solvency II and not Solvency I.</p> <p>Disagree, the overall solvency needs is the heart of the FLAOR exercise; where appropriate different valuation basis can be used</p>
417.	MetLife	1.37	<p>We agree the undertakings should be able to use a basis different valuation basis to Solvency II and justifies the approach.</p> <p>However, as per our comment in 1.9 above, 1.9 and 1.10 together do not appear consistent with this guideline, as they imply the need to project and stress test capital requirements on a number of different bases and then reconcile the results. We believe that this would place an excessive burden on undertakings prior to Solvency II implementation, particularly undertakings with multiple business lines and / or undertakings with entities located in multiple jurisdictions.</p>	<p>Noted</p> <p>Disagree; it is the undertaking who decides on the appropriate valuation basis for its FLAOR for its overall solvency needs; for those assessments related</p>

			<p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.</p>	<p>much more to pillar I capital requirements EIOPA will provide technical specifications; as proportionality applies FLAOR should reflect the nature and complexity of the undertaking, its risks and its business</p> <p>See comment 397 and 405</p> <p>FLAOR should enable undertakings to have a Forward looking assessment, meaning to prepare for Solvency II and not for Solvency I</p>
418.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.37	<p>FLAOR is required to be based on Solvency II techniques which are currently not entirely defined (especially in the area of long term obligations). On the other hand FLAOR will be required to be used already in 2014 which means that the implementation must take place till the end of 2013. In our opinion the undertakings will have more or less 2-3 months for proper implementation of FLAOR after the announcement of Omnibus II which is obviously regarded as too short period.</p>	<p>Disagree; see comment 397</p> <p>EIOPA sees the overall solvency needs assessment to be more independent of OMD II and therefore requests this assessment already during 2014</p>

419.	ROAM- Réunion des Organismes d'assurance mutuelle	1.37	(1) Veuillez noter qu'il n'est pas possible d'affirmer que les bases d'évaluation du besoin global de solvabilité doivent être différentes de celles utilisées pour le calcul du SCR si la formule standard n'est pas encore définie. (2) L'ORSA ne doit pas conduire à faire un modèle interne. Certains risques ne sont pas modélisables, ni même quantifiables.	See comment 397 Agree; FLAOR Guidelines do not require to develop an internal model; the deviation can be estimated on best effort
420.	RSA Insurance Group	1.37	Until Solvency II comes into effect, there should be no requirement or expectation that undertakings will use Solvency II valuation bases. The valuation bases will be those that are most useful to the undertaking in making decisions and will therefore reflect existing valuation requirements.	Disagree; it is the undertaking who chooses the valuation basis; see comment 397
423.	AMICE	1.38	This paragraph seems to infer that a quantitative assessment of the overall solvency needs is needed. It should especially be noted that not all risks included in the "overall solvency needs" need to be quantified. Risks can also be assessed and managed on different terms than with capital assessment.	Agree; but requiring quantification is not at all the same as requiring that the risks are covered by capital; the estimation can be done on best effort basis; see new wording
424.	Association of Financial Mutuals	1.38	This implies that firms will need to carry out the forward looking assessment on both a Solvency II projected balance sheets and on the current Solvency I projected balance sheets. The former is not possible until clarity around the LTGA is achieved.	It is the undertaking who decides on the appropriate valuation basis; see comment 397 and new wording
425.	CNA Insurance	1.38	See comment related to 1.37 above.	See comment 397 and new wording
426.	CRO Forum and CFO Forum	1.38	See our general comments: we see no benefit in performing this comparison with Solvency II requirements at this stage.	Noted; see comment 397 and new wording

			Furthermore, this paragraph is inconsistent with the concept of preparation and should be re-stated to a requirement.	
427.	Deloitte Touche Tohmatsu	1.38	<p>Question1: The need for quantitative assessment of the differences seems to imply that if insurers want to use a different valuation base than Solvency II for their forward looking assesment they still have to do all of the calculations using the Solvency II methodology (i.e. two calculations: a) using the company's internal approach; and b) using the Solvency II approach). Are both sets of calculations required in order to satisfy this point? The need for quantitative assesment of the differences seems overly burdensome.</p> <p>If both of these calculations are required is it sufficient that an overall quantitative difference be provided with accompanied qualitative descriptions of the differences or does this require a quantitative impact assessment of each difference in turn?</p> <p>Question2: If an organisation has made an end state design decision that its internal management view of valuation basis and calculation methodology will not differ from its Internal Model SCR (e.g. for a GI company that does not have the same issues in relation to matching premium), what is required to be included in the FLA to meet this requirement? Would this just be a qualitative description of the assessment performed (and governance surrounding this) that the Internal Model SCR valuations are deemed appropriate?</p> <p>Question3: Can an internal model based on the Solvency II methodology be used for this assessment (as the model to which the different valuation basis will be compared) or is comparison to the standard formula needed in this</p>	<p>To quantitatively estimate the impact on the overall solvency needs assesment of the different recognition and valuation bases is not identical with the requirement of two sets of calculation. The quantification can be done on best effort basis; see new wording of Guideline 11.</p> <p>For the overall solvency needs assesment the undertaking can use its internal model valuation.</p> <p>See above; EIOPA would not expect that the IM needs to be on pre-application process in order to be used in the FLAOR</p>

			Guideline also? Is it necessary for the internal model to be in the pre-application phase?	
428.	DIMA (Dublin International Insurance & Management)	1.38	See comment above.	See Feedback Statement 'Purpose of preparatory phase' and comment 397
429.	German Insurance Association (GDV)	1.38	<p>If the valuation and recognition bases differ from Solvency II a quantification of the impact is required. This implies application of Pillar I elements. As long as the political process has not been finalized, elements of Pillar I should be excluded (See our general comment). If Omnibus II comes into force before interim period starts, guideline 3 on the thresholds should apply for the requirement that the undertaking quantitatively estimates the impact of recognition and valuation bases different from Solvency II. Further only a significant impact should be estimated.</p> <p>The implementation at the group level should follow in a next step after Solvency II comes into force (See our general comment).</p>	<p>EIOPA sees the overall solvency needs assessment to be more independent of the final OMD II agreement. The impact can be estimated on best effort basis; see new wording of Guideline 11.</p> <p>The Guidelines apply mutadis mutandis at group level; please refer to resolution of comment 14</p>
430.	Groupe Consultatif Actuariel Européen	1.38	<p>The guideline requires the assessment of the impact on the own solvency needs if a different recognition and valuation basis is needed. For this it is necessary that the technical specifications for the calculation of the technical provision have been provided similar to 1.29.</p> <p>We suggest dropping this requirement until solvency II is fully in-force, otherwise expecting undertakings to employ the same level of effort as if Pillar 1 were actually in effect.</p>	See comment 429 and new wording of the Guideline.
432.	Insurance and Reinsurance Stakeholder Group (IRSG)	1.38	Same as comment above: This guideline is inconsistent with the approach described in the Cover note. By requiring all undertakings to quantify the impact on the overall solvency needs of using different recognition and valuation basis, EIOPA is imposing Solvency II Pillar I calculations to all undertakings.	It is the undertaking who decides on the valuation basis for its overall solvency needs assessment; the impact can be estimated on best effort basis; as

				FLAOR is preparing for Solvency II the impact on overall solvency needs under Solvency II needs to be taken into account; see new wording of Guideline 11.
433.	Insurance Europe	1.38	See comment above	See comment 415
435.	MetLife	1.38	<p>We do not agree that, prior to Solvency II, undertakings should be required to quantify the forward looking solvency assessment on multiple bases and then reconcile the results. This would place an excessive burden on undertakings.</p> <p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being</p>	See comment 417

			agreed upon resolution of Omnibus II.	
436.	MGM Advantage	1.38	This implies that firms will need to carry out the forward looking assessment on both a Solvency II projected balance sheets and on the current Solvency I projected balance sheets. The former is not possible until clarity around the LTGA is achieved. Although EIOPA has now published their assessment of the possible options, there is still a long way to go until final agreements is achieved.	See comment 397
437.	ROAM- Réunion des Organismes d'assurance mutuelle	1.38	Cet article peut laisser entendre que le besoin global de solvabilité fasse l'objet d'une évaluation quantitative propre à l'entreprise, qui serait comparée à l'exigence réglementaire que constitue le SCR. En d'autres termes, cela signifierait le recalcul par l'entreprise d'une exigence de fonds propres: or il ne doit pas s'agir de la mise en place d'un modèle interne (et quand modèle interne il y a, il relève du pilier I), ce point mériterait d'être explicité. Il nous semble que l'intérêt de l'ORSA, ou le FLUOR est justement la possibilité de sortir du cadre de la modélisation, tous les risques n'étant pas modélisables ou même quantifiables.	Disagree. The overall solvency needs assessment is done using an approach that is proportionate to the risks of the undertaking. This does not require putting in place a model. For the overall solvency needs the risks have to be quantified which does however not mean that the undertaking actually holds capital against the risks.
439.	Urs Roth	1.38	The quality of the internal control environment is related to the operational risk. The most serious operational risk events are associated with defaults in the internal control environment of the undertakings. So I suggest that undertakings should assess their internal control environment in order to estimate the solvency needs for their operative risk. Guidelines for the assessment of the internal control environment should inserted in article 1.69 of CP_13_008. Guidelines for the estimation of the solvency needs should inserted in this article.	Disagree; 1.38 is not about the different risks to be taken into account in the FLAOR assessments on the overall solvency needs. It is about the consequences when using different valuation basis than Solvency II

			<p>“National competent authorities should ensure that the undertaking quantitatively estimates the impact on the overall solvency needs assessment of the different recognition and valuation bases.</p> <p>Especially the undertaking should estimate the solvency need for its operative risk taking into account the results from the assessment monitoring and reporting of its internal control environment.”</p>	for this assessment; see new wording of Guideline 11.
440.	AMICE	1.39	<p>Guideline 12 – Assessment of the overall solvency needs</p> <p>See our comments on paragraphs 1.37 and 1.38 as it would not be possible to quantify some risks.</p>	EIOPA is aware that not all risks are quantifiable or easily quantifiable. In these cases estimation on best effort basis can be used during the preparatory phase.
441.	ASSURALIA	1.39	More detailed description of “material risks” and “a sufficiently wide range of stress test or scenario analyses” is needed. When is a risk material and how should be decided if a range of stress tests is sufficiently wide?	It is the undertaking who decides which risks are material and which stress tests etc. it wants to use in its FLAOR.
442.	CRO Forum and CFO Forum	1.39	See general remarks, the reference to Solvency II should be removed. The statement ‘should ensure’ should be replaced with ‘should require firms to take preparatory steps...’. It should be clear that this applies to quantifiable risks.	Noted
443.	DIMA (Dublin International Insurance & Management)	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.	See comment 440
444.	Groupe	1.39	The technical specifications for the calculation of the technical provision is	1.9 refers to "own risks"

	Consultatif Actuariel Européen		<p>needed to perform an assessment of the own funds as prescribed in 3.34 of the explanatory text (ET). This implies that the assessment of own solvency needs is not irrespective of "pillar 1" inconsistent with 1.9.</p> <p>Without having to read the guidelines very carefully it is not immediately clear what certain terminology in the guidelines refer to. One example is "overall solvency needs" as used in Guidelines 11 and 12. We take this to refer to the insurers own assessment if its solvency needs – sometimes termed "economic capital requirement", as opposed to regulatory capital requirements.</p> <p>It would be useful to develop a set of such terminology, define it clearly in paragraph 1.20 and use it consistently in the guidelines.</p>	Correct. But economic capital is not used in the Solvency II context.
446.	Insurance Europe	1.39	We understand the meaning of this requirement to be that once the overall solvency needs have been established, material risks should be the object of some form of qualitative commentary.	Yes.
447.	International Underwriting Association of London (IUA)	1.39	We suggest that it needs to be made clearer that quantification would be derived from the qualitative evidence and it is also not clear how that should be achieved.	See comment 440
449.	ROAM- Réunion des Organismes d'assurance mutuelle	1.39	Cf. 1.37 et 1.38 sur l'impossibilité de quantifier certains risques.	See comment 440
451.	AMICE	1.40	Stress tests should be limited to those based on investment and economic parameters (stock markets and real estate prices) without taking into account management actions. The assessment of the implications of the undertaking taking those actions should not be mandatory.	Management actions may or may not be taken into account.

452.	CRO Forum and CFO Forum	1.40	See general remarks	Noted
453.	Deloitte Touche Tohmatsu	1.40	Comment: "Sufficiently wide range of stress test or scenario analysis" should be more clear – in terms of what is "sufficient" and what is the expected scope (reverse stress test, sensitivity analysis, etc.).	EIOPA has no intention to be prescriptive. Obviously, what can be considered sufficient very much depends on the specific situation.
454.	German Insurance Association (GDV)	1.40	Stress tests and sensitivity should not be seen as an exhaustive list of methods. We suggest the redraft « range of stress test or scenario analysis. The explanatory text should be adjusted.	Disagree. There is no implication that these methods are exhaustive.
455.	Groupe Consultatif Actuariel Européen	1.40	Mentioning stress-tests and sensitivity analyses looks prescriptive, but this list should not be seen as exhaustive and should not restrict the range of methods undertakings might wish to use. Therefore we suggest the following redraft: "(...) the undertaking subjects the identified material risks to a sufficiently wide range of stress test or scenario analysis to provide an adequate basis for the assessment of the overall solvency needs." Furthermore, to develop an understanding of the overall solvency needs, expert judgement and qualitative approaches as e.g. the prudent person principle can and need to be taken into account. It should be clarified that NCA will not be expected to pre-define what is a "sufficiently wide" range of tests.	Agree. Comment above Agree. What sufficiently wide means depends on the specific situation and cannot be pre-defined.
457.	Insurance Europe	1.40	Stress test and sensitivity analysis should not be seen as an exhaustive list of methods. We suggest the redraft "range of stress test or scenario analysis".	See comment 454

458.	International Underwriting Association of London (IUA)	1.40	We suggest that it needs to be made clear that the NCA would not require exhaustive scenario testing, but only as much as would be strictly necessary.	Delete 'strictly' and EIOPA agrees.
460.	MSV Life	1.40	The text looks too open ended. How should materiality be assessed and what would be considered as « sufficiently wide range of stress test » for any identified risks?	It is up to the undertaking to decide; see comment, see comment 441.
461.	Munich Re	1.40	Specific and detailed technical requirements regarding the analysis should be avoided in this Guideline as they are not exhaustive and do not guarantee a principle-based approach. In addition, more qualitative approaches should be taken into account as well.	Agree. In EIOPA's opinion these are not specific or detailed at all. Neither is there any implication that this is exhaustive.
462.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.40	<p>According to point 1.40 the NCAs are expected to ensure that the undertakings will "subject the identified material risks to a sufficiently wide range of stress test or scenario analyses". In our opinion the phrase "material risk" requires additional precise definition so the undertaking is aware which risk is required to be subject to stress tests. Moreover EIOPA should define the benchmark for the "material risk" (e.g. level of Own Funds, SCR etc.) based on which the undertaking will be able to decide whether the considered risk can be classified as material or not-material.</p> <p>Additionally in our opinion before the implementation phase the local NCA should define the stress tests as there is a risk that undertakings understanding of the phrase "wide range" will be different than the NCA understanding (e.g. the undertaking will perform 2 stress tests for defined risk while the NCA will require 4 stress tests).</p> <p>To sum it up in our opinion local NCA should clearly define its expectations regarding the stress tests. Based on the proposed timeline (introduction of local guidelines on 1st of January 2014) we would like to suggest dedicating the year 2014 to local pre-application discussions between NCA and undertakings which would lead to preparation of detailed and precise</p>	<p>Please refer to the resolution to comment 461.</p> <p>The NCAs cannot and should not define the stress tests. Stress testing is a risk management tool to be used by undertaking as they see fit in analysing the potential risks they are facing and the impact on their solvency position.</p>

			local implementation timeline covering both implementation deadlines and details regarding qualitative and quantitative FLAOR requirements. Based on our proposal we believe that the real implementation process should take place in 2015 and as a result the first FLAOR reporting should be performed in 2016.	
464.	Urs Roth	1.40	<p>If the range of the stress scenarios is not clarified, there will be a lot of discussion between the undertakings and the supervisory authorities. I suggest to give an orientation for the range of stress scenarios.</p> <p>“Where appropriate, national competent authorities should ensure that the undertaking subjects the identified material risks to a sufficiently wide range of stress test or scenario analyses in order to provide an adequate basis for the assessment of the overall solvency needs.</p> <p>The range of stress test or scenario analyses should orientate itself to the calibration of the Solvency Capital Requirement in Article 101 of Solvency II.”</p>	This is the overall solvency needs assessment. EIOPA wants undertakings not to focus on the SCR calculation for that.
465.	AMICE	1.41	<p>Guideline 13 – Forward-looking perspective of the overall solvency</p> <p>The forward-looking assessment of the overall solvency needs in quantitative and qualitative terms would only be possible provided it is based on a Solvency I balance sheet, Solvency I required solvency margin and Solvency I Own Funds or/and considering a qualitative analysis.</p> <p>Further clarification is needed on whether the prospects for the medium and long term period should be consistent with the undertaking’s business plan. Furthermore, the longer the ORSA’s time horizon is, the more complex the assessment of the forward looking assessment of the overall solvency needs becomes.</p>	The undertaking does the overall solvency needs on the valuation basis which it feels to be appropriate, see Guideline 11. Guideline 13 requires that the assessment is done in a forward looking manner where it is the undertaking again to decide what time horizon is the most appropriate. The supervisor might challenge the decision taken if the supervisor sees another valuation

				basis or another timehorizon to be more appropriate.
466.	Association of Financial Mutuals	1.41	A definition of medium and long term would be useful. Most firms have abandoned planning beyond 5 years and there is a trend to abandoning planning beyond 3 years as being too speculative to be useful. The definition should however be consistent with the nature of the insurance business being written and the undertakings business model	See comment 465
467.	ASSURALIA	1.41	<p>It is indeed important that the undertaking should run a continuity analysis so as to demonstrate its ability to manage risks in the long term. However it is not clear when a perspective is classified as medium term or long term.</p> <p>Also, small and medium firms should be allowed to run the assessment on an one year time horizon completed by a qualitative assessment on a longer term horizon, highlighting multi-year tendencies and developments.</p> <p>Finally, more detailed information on the formula and confidence level to be used to calculate the long term capital requirements would be welcome.</p>	See comment 465
468.	CRO Forum and CFO Forum	1.41	See general remarks, the reference to Solvency II should be removed. The statement 'should ensure' should be replaced with 'should require the undertaking's assessment...' We would further bring to the attention of NCAs that the forward looking perspective needs to be adapted to the company's business planning period.	<p>Noted</p> <p>Agree; see comment 465</p>
469.	Deloitte Touche Tohmatsu	1.41	<p>Question:</p> <p>What is the scope of the forward looking assessment in the future? Does this apply to all of the requirements mentioned in Guideline 12 and 13 (quantitative assessment of overall solvency needs and stress tests)? Does this mean that companies need to perform a quantitative projection of their capital needs and perform all stresses at each period? Does this also apply to the assessment of different valuation and recognition bases as</p>	See comment 465; in addition it is the company, too, to decide to which scenarios it want to apply to future projections.

			<p>described by point 1.37?</p> <p>Comment:</p> <p>In case a quantitative projection of capital needs is required this is quite onerous and companies may not be in a position to project capital requirements accurately in 2014. We suggest that wording is included to allow for some simplifications in the capital projections.</p> <p>Comment:</p> <p>“medium or long term as appropriate” should be more clear. We suggest that it may be useful to include wording to reference back to the business planning period, as per the explanatory text</p>	<p>Agree in principal; see Feedback Statement ‘purpose of the preparatory phase’.</p>
470.	DIMA (Dublin International Insurance & Management)	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.</p> <p>Scenario testing should be limited to relevant scenarios in the preparatory phase.</p>	<p>This is not the intention of the Guideline; see comment 465 and 469</p>
472.	German Insurance Association (GDV)	1.41	<p>We agree an insurer should run continuity analysis so as to demonstrate its ability to manage risk over the longer term, in contrast to the Pillar I time horizon. However, the long term projections according to business plan could be quite burdensome. It should be made clear that estimations are sufficient taking into account material changes in risk profile. Small and medium firms should be allowed to run the assessment on an one year time horizon completed by a qualitative assessment on a longer term horizon, highlighting multi-year tendencies and developments.</p>	<p>See comment 465</p>
473.	Groupe Consultatif Actuariel Européen	1.41	<p>A medium-term or long-term assessment appears to be a sensible approach as stated in the original Level 3 ORSA guidance. However, further clarity regarding expectations may be helpful to avoid undertakings carrying out unnecessary work / calculations.</p>	<p>See comment 465</p>

			Medium or long term should be defined by reference to the business planning period, as is the case in guideline 14. The expanded wording from the explanatory text (paragraph 3.43) would be usefully included here	
475.	Insurance Association of Cyprus	1.41	Long term projections according to business plan can carry substantial burden. We consider therefore that in the case of small undertakings it should be possible to undertake the assessment with a 1-year time horizon.	See comment 465
476.	Insurance Europe	1.41	<p>We agree that an undertaking should run continuity analysis so as to demonstrate its ability to manage risks over the longer term, in contrast to the Pillar I time horizon. However, the long term projections according to business plan could be quite burdensome, moreover on this preparatory phase. Undertakings should be allowed to run the assessment on an one year time horizon completed by a qualitative assessment on a longer term horizon, highlighting multi-year tendencies and developments.</p> <p>The explanatory text includes some strict guidance on the need for scenario testing. We underline that particularly in this preparatory phase, undertakings should not be required to complete an unlimited amount of tests, but instead just to test relevant scenarios.</p>	<p>See comment 465</p> <p>See Feedback Statement 'Explanatory Text' and comment 469</p>
478.	MGM Advantage	1.41	A definition of medium and long term would be useful. The definition should be consistent with the nature of the insurance business being written and the undertakings business model	See comment 465
479.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.41	According to point 1.41 the undertaking is required to assess its overall solvency needs taking into consideration medium term and long term perspective. In our opinion the terms "medium term" and "long term" require precise definition to avoid potential risk of misunderstanding. Moreover the precise guideline on how to define appropriate time horizon is perceived by us as necessary.	See comment 465

480.	ROAM- Réunion des Organismes d'assurance mutuelle	1.41	<p>Est-ce que EIOPA considère que les perspectives de moyen et long terme utilisées doivent être conformes au Business Plan généralement élaboré au sein des entreprises?</p> <p>Veillez noter que plus la perspective de long terme sera « longue » et plus les techniques nécessaires seront compliquées.</p>	<p>See comment 465</p> <p>Noted</p>
482.	Urs Roth	1.41	<p>The definition of the stress scenarios is crucial for the ORSA-Process. I suggest to follow the Swiss Solvency Test concerning the definition of stress scenarios.</p> <p>“In accordance with Article 45 of Solvency II, national competent authorities should ensure that the undertaking’s assessment of the overall solvency needs is forward-looking, including a medium term or long term perspective as appropriate.</p> <p>The assessment should especially</p> <ul style="list-style-type: none"> a) refer to the business plan as well as strategic options of the undertaking b) refer to the capital plan of the undertaking c) concern scenario analysis regarding material risks with long time impact arising from <ul style="list-style-type: none"> 1. the market, 2. the specific insurance business, 3. the reinsurance contracts and 4. the internal processes and infrastructure of the undertaking d) take account of possible reactions in the business and capital 	<p>Disagree; see Feedback Statement ‘principle based approach’ and comment 465</p>

			<p>planning of the undertaking in terms of management rules</p> <p>Where appropriate, national competent authorities could provide the undertakings with</p> <p>a) market scenarios and</p> <p>b) calibration guidelines for scenario analysis regarding risks arising from the specific insurance business, the reinsurance contacts and the internal processes and infrastructure of the undertaking”</p>	
483.	AMICE	1.42	<p>Guideline 14 – Regulatory Capital Requirements</p> <p>We are not sure whether this guideline is applicable, both for the a) b) and c) alinea (for example in case of insurance undertakings specialised in providing pensions and retirement-related products).</p> <p>Clarification would be helpful on the term “future potential material changes in the risk profile”. The SCR is in itself an assessment of the deviation from the undertaking’s risk profile with a 99,5% 1-year time horizon. Further guidance is also needed on the meaning of the term “future potential material changes in the risk profile”.</p>	<p>EIOPA will provide technical specifications for this assessment.</p> <p>It is the undertaking who decides on the future potential material changes in its risk profile and demonstrates these changes in its FLAOR.</p>
484.	ASSURALIA	1.42	<p>An assessment of compliance on a continuous basis with the Solvency II requirements regarding the composition of own funds across tiers (c) is an excessive requirement during the interim period as companies are still subjected to the Solvency I own fund requirements and counting on the grandfathering procedure thereafter. It is proposed to drop the requirement 1.42 c).</p>	<p>EIOPA will provide technical specifications and expects this assessment from 2015 onwards.</p>
485.	CNA Insurance	1.42	<p>Guideline 14 requires continuous compliance with Solvency II well ahead of its implementation date, while also continuing to be subject to existing regulatory requirements. Being subjected to dual regulatory requirements</p>	<p>See comment 484 and Feedback Statement ‘double burden’.</p>

			<p>is inefficient and costly for an undertaking. While we recognize the benefit of ensuring an undertaking is fully prepared for full Solvency II implementation on day one, we do not believe this benefit outweighs the cost of having to operate under dual regulatory regimes for a minimum of two years. The costs associated with such an endeavor would be great, and unnecessary. In addition, we recognize that certain aspects of Omnibus II are still being determined and even those which have been finalized are still subject to change up until the point that Omnibus II is adopted and the Level II Measures are released. Requiring an undertaking to implement Solvency II measures prior to the adoption of Omnibus II runs the risk of an undertaking implementing changes and processes that may need to later be revised, again resulting in excess and unnecessary costs. A single operative date from which Solvency II requirements would apply would alleviate a great deal of unnecessary cost and complexity.</p>	
486.	CRO Forum and CFO Forum	1.42	<p>See our general comments: we see no benefit in performing this comparison with Solvency II requirements at this stage.</p>	<p>See comment 484 and Feedback Statement 'purpose of the preparatory phase'.</p>
487.	Deloitte Touche Tohmatsu	1.42	<p>Question: What is the difference between the forward-looking assessment of overall solvency needs over a long or medium term as described by 1.41 and assessment if the undertaking would comply on a continuous basis with Solvency II regulatory capital requirements in this point? Is the only difference in the fact that the forward-looking assessment is about projecting capital requirements while the continuous compliance is about comparing these projected capital requirements with projected available capital?</p> <p>Can the capital requirements be projected as part of the forward-looking assessment of overall solvency needs be the same (using the same valuation basis) as the capital requirements used in the assessment of continuous compliance? If yes, this would in our understanding imply that the different valuation bases can also be used in the assessment of continuous compliance. Is our understanding correct?</p>	<p>The overall solvency needs is not equal to the capital requirement. EIOPA expects the overall solvency needs of one company to be higher than its capital requirements, i.e. depending on its risk and solvency margins.</p>

			<p>If using the different valuation basis is not allowed what is then the purpose of the different valuation bases assessment from point 1.41?</p> <p>In either case this requirement is quite onerous and companies may not be in a position to project capital requirements accurately in 2014. We suggest that wording is included to allow for some simplifications in the capital projections.</p>	<p>The different valuation basis is only allowed for the assessment of the overall solvency needs.</p> <p>See comment 484</p>
488.	DIMA (Dublin International Insurance & Management)	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 proportionate.</p> <p>This should be reworded to read: "...the assessment of whether the undertaking would comply..."</p>	<p>See comment 484</p> <p>Disagree; EIOPA believes that it is as important for groups to prepare the FLAOR at the group level</p> <p>Agree; see new wording</p>
489.	FEE	1.42	<p>Performing an assessment of continuous compliance with the capital standards is a risk that this may draw the focus of the forward-looking assessment of their own risks, away from risk management</p>	<p>Disagree; the principal idea is that the undertaking should look at its risk profile and its solvency needs, see Own Risk and Solvency Assessment</p>
491.	German Insurance Association (GDV)	1.42	<p>As long as the political process has not been finalized, elements of Pillar I should be excluded at solo level. The implementation at the group level should follow in a next step after Solvency II comes into force (See our general comment).</p> <p>Continuous compliance over business planning period should not require a</p>	<p>Disagree : please refer to resolution of comment 14 and 484</p> <p>Agree, if this is appropriate for the</p>

			full calculation of regulatory capital requirements over business planning period (at several valuation dates after year 0). It should be made clear that estimations are sufficient taking into account material changes in risk profile.	undertaking concerned.
492.	Groupe Consultatif Actuariel Européen	1.42	<p>As long as Solvency II is not finalised steering of a company is based on existing regulatory requirements. Uncertainty caused by still open issues (LTGA) in the SII regulatory regime might be exacerbate the use in daily business.</p> <p>We understand Guideline 14 as requiring the ability to calculate the regulatory capital requirements (SCR/MCR) not just at a single point in time, but also to project these calculations forward in time to assess regulatory compliance on a continuous basis. The requirement to project regulatory solvency on a SII basis as early as 2014 is very ambitious and the effort required by insurers should not be underestimated.</p> <p>We propose an alternative where insurers would have the option to apply the preparatory guidelines for ORSA/FLA in an incremental fashion over 2014-15. In particular, those guidelines referring to Solvency II regulatory requirements and technical provisions could be deferred until the later part of the preparatory phase and the initial assessment in 2014 would concentrate on the "own assessment" of solvency needs. Consideration should also be given to how simplifications can be incorporated into projections of the SCR/MCR</p>	<p>See comment 484</p> <p>Agree; EIOPA is aware of the challenge for undertakings during the preparatory phase, but would like to remind that this requirement will come into strict application on day 1 of Solvency II.</p> <p>Agree; this assessment is only foreseen after the publication of technical specifications therefore from 2015 onwards.</p>
494.	Insurance Association of Cyprus	1.42	We do not support the requirements that ask for Solvency II pillar 1 calculations.	Noted
495.	Insurance Europe	1.42	This requirement is critical because it requires Pillar I calculations. The Guideline should only apply for solo undertakings when the legislative process is completed. Implementation of Pillar I calculation rules at group level should follow in a next step after Solvency II comes into force.	Disagree : please refer to resolution of comment 14 and 484 and 492

			<p>Continuous compliance should not require a full calculation of the regulatory capital requirements over the business planning period (at several valuation dates after year 0). It should be made clear that estimations are sufficient if they take into account material changes in risk profile.</p> <p>Sub-paragraph (c) is an excessive requirement during the interim period as undertakings are still subjected to the Solvency I own fund requirements and counting on the grandfathering procedure thereafter. It is proposed to drop the requirement 1.42 c).</p>	
496.	International Underwriting Association of London (IUA)	1.42	The proposed approach would require the use of Pillar I data which is not yet available. We do not believe, in any case, that the Pillar I data should be used in the way suggested until Solvency II comes fully into effect.	See comment 484
497.	Investment & Life Assurance Group Limited (ILAG)	1.42	This paragraph requires assessment of compliance with SII regulatory capital requirements, but these requirements have not yet been fully determined.	See comment 484
499.	MetLife	1.42	<p>As per our comments in 1.9, 1.10 above, we do not agree that undertakings should be required to comply with the requirement to project capital requirements on the Solvency II basis.</p> <p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until</p>	See comment 76

			<p>such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.</p>	
500.	Nordea Life & Pensions	1.42	<p>We have a concern that the forward looking assessment of own solvency needs is based on Solvency II quantitative requirements from 2014 for companies above the threshold. Although this was one of the considerations of the consultation paper, and the assessment made that this was worthwhile in order for insurance companies to show their preparedness, there is still uncertainty around the final measures. This uncertainty will lead to additional costs for companies.</p> <p>In the event of any delay to agreement of the final Pillar I measures and/or Solvency II implementation, there appears to be no provision in the guidelines for a postponement of the Pillar I-related requirements for the assessment itself. We understand that the assessment will still need to be carried out on the Solvency II basis from 2014.</p>	<p>See comment 484 and 492</p> <p>The assessment is expected from 2015 onwards.</p>
501.	ROAM- Réunion des Organismes d’assurance mutuelle	1.42	<p>(1) Veuillez noter qu’aucune vérification d’un respect permanent des critères quantitatifs du SCR n’est possible tant que la formule standard n’est pas stabilisée.</p> <p>(2) EIOPA pourrait-il préciser quelle est la définition de « future potential</p>	<p>See comment 483 and 484</p>

			material changes in the risk profile » ? Veuillez noter qu'un SCR est en soi une évaluation du coût d'une déviation du profil de risque de l'entreprise, selon une probabilité de 99,5% par an.	
502.	RSA Insurance Group	1.42	See our comment on 1.26 above. The assessment of continuous compliance should be based on the requirements that actually apply, not the Solvency II requirements before they take effect.	Noted; see comment 484
504.	Urs Roth	1.42	<p>The compliance of the Solvency II regulatory capital requirements on a continuous basis is mostly affected by adverse evolutions in the business environment of the undertakings, e.g. the "Japan Scenario". So I suggest to focus on adverse evolutions in this article. But the undertakings are overcharged if they should comply the Solvency II regulatory capital requirements in this situation. Instead they should sketch a crisis-plan, how to regain their possibility to comply the Solvency II regulatory capital requirements.</p> <p>"In accordance with Article 45 of Solvency II and in accordance with Guideline 3 on the threshold for the forward looking assessment of the undertaking's own risks, national competent authorities should ensure that as part of the forward looking assessment of the undertaking's own risks the assessment if the undertaking would comply on a continuous basis with the Solvency II regulatory capital requirements includes at least adverse evolutions concerning their business environment which affects:</p> <ul style="list-style-type: none"> a) the the risk profile or b) the quantity and quality of its own funds over the whole of its business planning period. <p>The undertaking should outline the evolutions where they could not comply the Solvency II regulatory capital requirements regarding possible reactions in its business and capital planning. For such evolutions the undertaking should sketch a crisis-plan, how to regain its possibility to comply the Solvency II regulatory capital requirements."</p>	<p>See comment 484 and Feedback Statement 'principle bases approach'.</p> <p>For the preparatory phase EIOPA is aware that undertakings might need to estimate on best effort basis, see feedback 'purpose of the preparatory phase'.</p>

505.	AMICE	1.43	<p>Guideline 15- Technical Provisions</p> <p>The assessment of the continuous compliance with regards the requirements regarding the calculation of technical provisions should not be requested before Solvency II is expected to be implemented (2016).</p>	<p>EIOPA will provide technical provisions for this assessment, which are foreseen to be published in 2014. Therefore undertakings are expected to perform this assessment from 2015 onwards.</p>
506.	CNA Insurance	1.43	<p>Guideline 15 requires continuous compliance with Solvency II well ahead of its implementation date, while also continuing to be subject to existing regulatory requirements. Being subjected to dual regulatory requirements is inefficient and costly for an undertaking. While we recognize the benefit of ensuring an undertaking is fully prepared for full Solvency II implementation on day one, we do not believe this benefit outweighs the cost of having to operate under dual regulatory regimes for a minimum of two years. The costs associated with such an endeavor would be great, and unnecessary. In addition, we recognize that certain aspects of Omnibus II are still being determined and even those which have been finalized are still subject to change up until the point that Omnibus II is adopted. Requiring an undertaking to implement Solvency II measures prior to the adoption of Omnibus II runs the risk of an undertaking implementing changes and processes that may need to later be revised, again resulting in excess and unnecessary costs. A single operative date from which Solvency II requirements would apply would alleviate a great deal of unnecessary cost and complexity.</p>	<p>See comment 505</p>
507.	CRO Forum and CFO Forum	1.43	<p>See our general comments: we see no benefit in performing this comparison with Solvency II requirements at this stage.</p> <p>However, it could be required for those undertakings in the internal model pre-application process to demonstrate how the actuarial function(s) is/are</p>	<p>See comment 505</p> <p>Agree; see CP13-008 on the System of Governance</p>

			involved in phasing in the solvency II requirements on Technical Provisions, and if they have conducted impact analysis under any form to this effect.	
508.	Deloitte Touche Tohmatsu	1.43	<p>Question1: What is meant by this point? Which requirements connected with technical provisions does this mainly refer to (data quality, best estimate calculation, risk margin, documentation, validation, ...?)?</p> <p>Question2: How can you assess if you will comply with calculation requirements in the future? Does this mean that you should try to predict for example data quality problems in the future? Or rather for example legislative changes in the future or new products and the readiness of existing models? What are requirements connected with risks arising from the technical provisions calculation?</p> <p>Question3: Is the assessment of the compliance with technical provisions requirements purely forward-looking or is proof of continuous compliance in the past also relevant?</p>	<p>Please see Art. 45 (b) of the Solvency II Directive</p> <p>See comment 505</p> <p>The past is not relevant for the FLAOR assessment; only the development from the presence into the future.</p>
509.	DIMA (Dublin International Insurance & Management)	1.43	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..."	Disagree; in System of Governance it is one of the tasks of the actuarial function; in FLAOR it is an assessment to be performed
511.	German Insurance Association (GDV)	1.43	As long as the political process has not been finalized, elements of Pillar I should be excluded at solo level. The implementation at the group level should follow in a next step after Solvency II comes into force (See our general comment).	Disagree : please refer to resolution of comment 14

512.	Groupe Consultatif Actuariel Européen	1.43	<p>The task of the actuarial function is not clear. What is the expectation?</p> <p>"...the actuarial function of the undertaking provides input if the undertaking would comply continuously with the requirements regarding the calculation of technical provisions and the risks arising from this calculation."</p> <p>AF is asked to provide input on compliance with requirements regarding the calculation of technical provision. It is unclear what this input should comprise.</p> <p>Possible interpretations include</p> <ul style="list-style-type: none"> <input type="checkbox"/> The AF must provide input as to whether insurers are able, at all times in the preparatory phase, to calculate TPs on a Solvency II basis (allowing for the fact that certain elements of the basis are not finalised) ? <input type="checkbox"/> The AF provides input into the projections of Technical Provisions used in the ORSA/FLA, and the associated uncertainty around those values? <input type="checkbox"/> monitoring of actual reserve development against that expected in the reserving basis could be explicitly mentioned? <p>The guidelines should clarify what is meant by the expression "whether or not the undertaking would comply continuously with the requirements regarding the calculation of technical provisions"</p> <p>This is again an area where we recommend insurers have the option to defer the particular guideline until the later part of the preparatory phase.</p>	<p>EIOPA expects the AF to contribute to this assessment of the FLAOR in an appropriate manner for the undertaking concerned. Please see in addition the Feedback Statement 'principle based approach'.</p> <p>Agree; EIOPA expects undertakings to perform this assessment from 2015 onwards.</p> <p>Agree</p>
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			On a point of wording we suggest "provides input as to whether the undertaking" rather than "if"	
514.	Insurance Association of Cyprus	1.43	We do not support the requirements that ask for Solvency II pillar 1 calculations.	See comment 505
515.	Insurance Europe	1.43	This requirement is critical because it requires Pillar I calculations. See 1.42 and our general comments. As such, we find inappropriate to require compliance to this rule on a continuous basis. It could be required for those undertakings in the internal model pre-application process to demonstrate how the actuarial function(s) is/are involved in phasing in the Solvency II requirements on Technical Provisions, and if they have conducted impact analysis under any form to this effect.	The requirements on Technical Provisions should be applicable to both standard formula and internal models users.
516.	International Underwriting Association of London (IUA)	1.43	The proposed approach would require the use of Pillar I data which is not yet available. We do not believe, in any case, that the Pillar I data should be used in the way suggested until Solvency II comes fully into effect.	See comment 505
518.	MetLife	1.43	There is still considerable uncertainty with regards to the final form of the Solvency II technical provisions and capital requirements. Requiring undertakings to project on an uncertain basis may lead to inconsistencies of results across Europe. We agree that the Actuarial function should provide input into the calculation of the technical provisions and the risk arising from the calculation – but on the basis chosen by the undertaking, which we propose should not necessarily be the Solvency II basis but rather one appropriate to the undertaking's risk profile and capital position, in line with Guideline 4 and 11.	See comment 505 Only for the assessment of the overall solvency needs a different valuation basis can be chosen than Solvency II. Guideline 11 does not apply here.
519.	MGM Advantage	1.43	There will be difficulties in meeting these requirements before the final requirements on the LTGA are known.	See comment 505

520.	Munich Re	1.43	<p>In order to assess the undertakings own risk the actuarial function has to provide input whether the undertaking is compliant with the requirements regarding the calculation of the technical provisions. Formally this task should also be mentioned in CP-13/08 Chapter VIII.</p> <p>Furthermore, this Guideline requires a more detailed explanation on EIOPA's understanding of the tasks of the actuarial function, in particular concerning the assessment of possible non-compliance with regard to the calculation of technical provisions.</p>	<p>Partially agree; in addition see comment 509</p> <p>The tasks of the AF is described in the System of Governance, CP13-008 and FLAOR is part of the System.</p>
521.	Nordea Life & Pensions	1.43	<p>We have a concern that the forward looking assessment of own solvency needs is based on Solvency II quantitative requirements (including projection of technical provisions) from 2014 for companies above the threshold. Although this was one of the considerations of the consultation paper, and the assessment made that this was worthwhile in order for insurance companies to show their preparedness, there is still uncertainty around the final measures. This uncertainty will lead to additional costs for companies.</p> <p>In the event of any delay to agreement of the final Pillar I measures and/or Solvency II implementation, there appears to be no provision in the guidelines for a postponement of the Pillar I-related requirements for the assessment itself. We understand that the assessment will still need to be carried out on the Solvency II basis from 2014.</p>	See comment 505
522.	ROAM- Réunion des Organismes d'assurance mutuelle	1.43	Cette proposition est impossible à appliquer tant que la formule standard ni ses hypothèses ne sont pas connues.	See comment 505
523.	RSA Insurance Group	1.43	See our comment on 1.27 above.	Noted
525.	AMICE	1.44	Guideline 16 – Deviations from assumptions underlying the SCR calculation	Disagree that a qualitative basis is sufficient; EIOPA will

			<p>The assessment of the deviations from the assumptions underlying the standard formula will be very challenging should there be no agreement on Omnibus II and the Level 2 Delegated Acts are not published by the end of 2013. This task is strongly connected with the enforceability of the Solvency II quantitative requirements and it should only be requested once the framework enters into force (in 2016). We would suggest that deviations between the risk profile and the assumptions underlying the standard formula are assessed on a qualitative basis only.</p>	<p>provide technical specifications and a paper on the underlying assumptions which is foreseen to be published in 2014 by EIOPA. Therefore the assessment is only expected to be performed from 2015 onwards.</p>
526.	Aon	1.44	<p>Comparing 1.29 and 1.44 does the assessment of whether the risk profile deviates from the assumptions underlying the SCR need to be performed by all firms within the threshold or just firms within the threshold that are not in the pre-application process ?</p>	<p>The assessment is expected from undertakings above the threshold which are not in the process of pre-application of an internal model; see Guideline 3.</p>
527.	ASSURALIA	1.44	<p>This requirement can be implemented only if the assumptions of the SCR standard formula are finalised and the necessary background information is provided by EIOPA.</p> <p>Also, as the framework directive states that the ORSA "shall not serve to calculate a capital requirement" (cf. Art. 45 (7), Directive 2009/138/EC). there is a risk of an overly broad interpretation of Guideline by NCAs, leading indirectly to capital add ons or to an obligation to implement an internal model. The explanatory text should clearly indicate that this cannot be the purpose of the undertaking's forward looking assessment.</p>	<p>See comment 525 and Feedback Statement 'Enforcement measures and supervisory action'.</p>
528.	CNA Insurance	1.44	<p>Guideline 16 requires continuous compliance with Solvency II well ahead of its implementation date, while also continuing to be subject to existing regulatory requirements. Being subjected to dual regulatory requirements</p>	<p>See comment 525</p>

			is inefficient and burdensome for an undertaking. While we recognize the benefit of ensuring an undertaking is fully prepared for full Solvency II implementation on day one, we do not believe this benefit outweighs the cost of having to operate under dual regulatory regimes for a minimum of two years. The costs associated with such an endeavor would be great, and unnecessary. In addition, we recognize that certain aspects of Omnibus II are still being negotiated and even those which have been finalized are still subject to change up until the point that Omnibus II is adopted. Requiring an undertaking to implement Solvency II measures prior to the adoption of Omnibus II runs the risk of an undertaking implementing changes and processes that may need to later be revised, again resulting in excess and unnecessary costs. A single operative date from which Solvency II requirements would apply would alleviate a great deal of unnecessary cost and complexity.	
529.	CRO Forum and CFO Forum	1.44	See our general comments: we see no benefit in performing this comparison with Solvency II requirements at this stage.	See comment 525
530.	Deloitte Touche Tohmatsu	1.44	<p>Comment:</p> <p>We understand from point 4.14 of the Cover note that EIOPA will provide guidance on the assumptions underlying the technical provisions and standard formula calculations. We suggest to explicitly link to this future guidance as part of the text of this point.</p> <p>Suggestion:</p> <p>It might be very onerous to ask companies to assess \ quantify the impact of any deviations. We understand that point 2.69 addresses this point and requires quantitative analysis only in cases where qualitative analysis indicated that the impact is significant. We agree with this point and suggest to include this wording directly in point 1.44.</p>	See comment 525
531.	DIMA (Dublin International Insurance & Management)	1.44	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>See comment 525</p> <p>Partially disagree; this</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.</p> <p>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>	<p>option in the Impact Assessment was not the final choice for EIOPA; see new wording of the Guideline.</p> <p>See Feedback Statement ‘Enforcement measures and supervisory action’ as well as ‘proportionality’.</p>
532.	German Insurance Association (GDV)	1.44	<p>As long as the political process has not been finalized, elements of Pillar I should be excluded at solo level. The implementation at the group level should follow in a next step after Solvency II comes into force (See our general comment).</p> <p>Further it is unclear how this requirement can be implemented. The assumptions of the SCR standard formula are not yet finally determined. Further necessary background information is not yet announced by EIOPA in a sufficient degree for evaluation.</p> <p>The framework directive states that the ORSA “shall not serve to calculate a capital requirement” (cf. Art. 45 (7), Directive 2009/138/EC). Nevertheless, we see the risk of an overly broad interpretation of guideline by NCAs, leading ‘automatically’ 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</p>	<p>Disagree : please refer to resolution of comment 14 and 525.</p> <p>See comment 531</p>

			assumptions underlying the SCR calculation is considered significant should be defined by an undertaking itself.	
533.	Groupe Consultatif Actuariel Européen	1.44	<p>Guideline 16 requires an undertaking to assess whether its risk profile deviates from the assumptions underlying the Solvency II Solvency Capital Requirement calculation and whether these deviations are material.</p> <p>Where quantification is impractical, judgemental or highly uncertain it would be more appropriate for an undertaking to “consider”, rather than “assess”.</p> <p>It would be useful to add to this guideline some of the material in sections 2.66-2.70 which explains that the assessment may be qualitative in the first instance and need be quantitative only if deviations are significant.</p> <p>This is another area (relating to Pillar I) which we recommend is deferred until the later part of the preparatory phase.</p> <p>Given that the standard formula has not been finalized, firms might be reserved to make conclusions whether the standard formula is appropriate since this could mean that they should effectively go for an (partial) internal model when the standard formula changes.</p>	<p>Disagree; see comment 525.</p> <p>See the new wording of the Guideline.</p> <p>Agree</p>
535.	Insurance Association of Cyprus	1.44	We do not support the requirements that ask for Solvency II pillar 1 calculations.	Noted; see comment 525
536.	Insurance Europe	1.44	This requirement is critical because it requires Pillar I calculations. See 1.42 and our general comments.	See comment 525 and 531

			<p>The policy option described in the Impact Assessment should be included in the Guideline, 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 this 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>We further underline that the framework directive states that the ORSA "shall not serve to calculate a capital requirement" (cf. Art. 45 (7), Directive 2009/138/EC). We see the risk of an overly broad interpretation of 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.</p>	
537.	International Underwriting Association of London (IUA)	1.44	The proposed approach would require the use of Pillar I data which is not yet available. We do not believe, in any case, that the Pillar I data should be used in the way suggested until Solvency II comes fully into effect.	See comment 525
538.	Investment & Life Assurance Group Limited (ILAG)	1.44	This paragraph requires assessment of compliance with SII regulatory capital requirements, but these requirements have not yet been fully determined.	See comment 525
540.	MetLife	1.44	We do not agree that, prior to the implementation of Solvency II, undertakings should be required to assess whether the risk profile deviates from the assumptions underlying the Solvency II SCR.	See comment 525

			There is still considerable uncertainty with regards to the final form of the Solvency II technical provisions and capital requirements. This makes it very difficult, if not impossible, to assess the deviation of the risk profile from the (unfinalised) assumptions underlying the SCR. We propose that undertakings should not be required to include the Solvency II basis in their formal forward looking assessment for these reasons ; while at the same time being required to demonstrate to NCAs that they will have the capability to do so once Solvency II is implemented.	
541.	Munich Re	1.44	Qualitative approaches to evaluate a deviation should also be taken into account.	Agree as a first step of the assessment.
542.	Nordea Life & Pensions	1.44	<p>We have a concern that the forward looking assessment of own solvency needs is based on Solvency II quantitative requirements (including comparison of own risk profile against assumptions underlying the SCR calculation) from 2014 for companies above the threshold. Although this was one of the considerations of the consultation paper, and the assessment made that this was worthwhile in order for insurance companies to show their preparedness, there is still uncertainty around the final measures. This uncertainty will lead to additional costs for companies.</p> <p>In the event of any delay to agreement of the final Pillar I measures and/or Solvency II implementation, there appears to be no provision in the guidelines for a postponement of the Pillar I-related requirements for the assessment itself. We understand that the assessment will still need to be carried out on the Solvency II basis from 2014.</p>	See comment 525
543.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.44	Please refer to point 1.8.	Noted
544.	ROAM-Réunion des Organismes d'assurance	1.44	Cette proposition est impossible à appliquer tant que la formule standard ni ses hypothèses ne sont pas connues.	See comment 525

	mutuelle			
545.	RSA Insurance Group	1.44	See our comment on 1.26 above. There should be no requirement to assess whether the risk profile deviates from the assumptions underlying the calculation of the Solvency II capital requirement until that requirement takes effect.	See comment 525 and Feedback Statement 'purpose of the preparatory phase'.
547.	Aon	1.45	The guidance is too prescriptive on what the on what the forward looking assessment is used for.	Disagree; the areas of business management are only described principle based.
548.	ASSURALIA	1.45	It should be clear that the insights gained during the process of this assessment are only for preparatory purposes. No conclusions or decisions should be made based on the outcome of the own risk assessment. If decisions are made based on the outcome of the assessment, undertakings possess two different decision-making frameworks (Solvency I and ORSA) which might lead to inconsistent results. For instance, it is not appropriate nor desirable to make decisions on capital management based on a forward looking assessment and Solvency II rules when prudential requirements for own funds under Solvency I still prevail. It is proposed to drop the requirement 1.45 a).	Disagree; EIOPA believes that even during the preparatory phase undertakings should prepare to take into account the outcome of their FLAOR, see specific comments in the Feedback Statement.
549.	CRO Forum and CFO Forum	1.45	<p>This paragraph in particular raises the issue previously commented on in our Cover Note about how these Guidelines should not be interpreted as requirements to be implemented as of 2014 but as requirements to be worked towards in this preparatory phase. With regards to this paragraph:</p> <p>a) It is not clear how compliance with this Guideline will be demonstrable for at least the early iterations of the forward looking assessment. We understand the preparatory phase covered by the Guidelines as a period within which the forward looking assessment becomes embedded into decision making processes such as those listed. It will therefore be challenging to achieve compliance with this Guideline until much closer to full Solvency II application.</p> <p>b) It will not be possible to assess or attest the extent to which this</p>	See Feedback Statement 'purpose of the preparatory phase' and comment 548

			Guideline is met in the supervisory report on the forward looking assessment due within 2 weeks of completion of the forward looking assessment. This assessment or attestation will need to be completed separately or on a rolling basis (i.e. based on the prior year forward looking assessment), see also 1.36.	
550.	DIMA (Dublin International Insurance & Management)	1.45	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.	See comment 547 and 548
551.	Groupe Consultatif Actuariel Européen	1.45	<p>We note that the text set out in guideline 17 effectively requires firms to manage key parts of their business with consideration of the forward looking assessment. As the results and insights of the assessment will be gathered through consideration of Solvency II Pillar 1 items, this may mean that these measures will gain more significance than current Solvency I metrics in strategic management processes and decision-making during the preparatory period.</p> <p>Guideline 17 would benefit from being expressed in more generic terms, perhaps using wording from the explanatory text (paragraph 3.65) which appears more appropriate. The emphasis on “capital management and business planning” is understandable but unnecessary. The specific emphasis on “product development and design” may depreciate other applications.</p> <p>This is one particular example where the convoluted requirement on NCAs to “ensure that the undertaking takes into account the results of the forward looking assessment of the undertaking’s own risks and the insights gained during the process of this assessment in at least ...” reads a little strangely, as opposed to direct guideline for insurers.</p>	<p>See Feedback Statement ‘purpose of the preparatory phase’ and comment 547 and 548.</p> <p>Format due to addressee of the preparatory Guidelines.</p>
552.	Insurance and Reinsurance Stakeholder	1.45	a)	Noted

	Group (IRSG)			
553.	Insurance Europe	1.45	<p>It should be clear that the insights gained during the process of this assessment are only for preparatory purposes. No conclusions or decisions should be made based on the outcome of the own risk assessment. If decisions are made based on the outcome of the assessment, undertakings possess two different decision-making frameworks (Solvency I and ORSA) which might lead to inconsistent results. For instance, it is not appropriate nor desirable to make decisions on capital management based on a forward looking assessment and Solvency II rules when prudential requirements for own funds under Solvency I still prevail. It is proposed to drop the requirement 1.45 a).</p> <p>See our general comments about how these Guidelines should not be interpreted as requirements to be implemented as of 2014 but as requirements to be worked towards in this preparatory phase.</p>	See comment 547, 548 and Feedback Statement 'purpose of the preparatory phase'.
555.	Powszechny Zakład Ubezpieczeń Spółka Akcyjna	1.45	In our opinion before the implementation phase the local NCA should define the form of evidence which will prove "that the undertaking takes into account the results" of FLAOR in capital management, business planning and product development processes. Without proper definition of required evidence the FLAOR process cannot be appropriately set-up.	Noted; it is the decision of the NCAs how to comply with the Guidelines
557.	AMICE	1.46	<p>Guideline 18 – Frequency</p> <p>EIOPA should distinguish between the ORSA report and the ORSA process. We fully agree that the ORSA process should be run, at least, on an annual basis. However, a full ORSA report documenting the process should only be reported as from 2015 once the process has been implemented and the narrative report and reporting templates have been submitted</p> <p>Besides, external decisions taken at a specific time of the year can affect undertaking´s projections and consequently, the consistency of this exercise. The submission to the supervisory authorities should therefore be left to the companies´ discretion.</p>	<p>Disagree; EIOPA believes that for preparatory purposes it is beneficial to submit a first report in 2014.</p> <p>Agree; it is the undertaking who decides when to perform its FLAOR during the year and therefore to submit the report in accordance</p>

				with Guideline 10 after the finalisation of the FLAOR; see in addition specific comments in the Feedback Statement
558.	CRO Forum and CFO Forum	1.46	A difference should also be made between a full forward looking assessment of own risks which may happen once a year, and a partial one which may happen more frequently and may be used in the process mentioned in the requirements. This is to allow for more flexibility and accuracy of the information used in these process.	Agree; EIOPA is of the opinion that only a full FLAOR is expected once a year in accordance with Art. 45 of Solvency II Directive
560.	Insurance Europe	1.46	As observed for other Guidelines, the explanatory text does not seem to have been adjusted to the proposed Guidelines. It expands on infra-annual forward looking assessments not included in the Guideline. See our general comments about how these Guidelines should not be interpreted as requirements to be implemented as of 2014 but as requirements to be worked towards in this preparatory phase.	See comment 558 and in addition Feedback Statement 'Explanatory Text' Disagree; EIOPA expects one FLAOR per year from 2014 onwards
563.	ASSURALIA	Section IV. General Comments	[Comments to provided by groups]	Noted
564.	Deloitte Touche Tohmatsu	Section IV. General Comments	Suggestion: The guidelines should be clearer on what approach should be taken by groups when different NCA's within the college adopt different approaches to the interim measures. For example, if one NCA within the college adopts the guidelines fully and without adjustment but another NCA only partially adopts the interim measures or does not adopt them at all or if conflicting approaches are agreed, then how should impacted entities proceed in preparing for Solvency II?	Please refer to resolution of comment 22
565.	Groupe Consultatif	Section IV. General	There are many subsidiaries which are simple shells (without salaried members) and which governance is entirely at the Group's level. In France	Noted: Governance requirement will apply

	Actuariel Européen	Comments	<p>many specificities exist for Groups (SGAM, UGM, UMG, GIE,...). This CP is not designed for them. The level of solidarity to be considered as a group should be specified (the definitions of 1.20 do not cover this)</p> <p>Clarification needs to be given for situations where different group regulators take a different approach to the adoption of the preparatory guidelines</p> <p>For the purposes of the preparatory guidelines what is the definition of a Group? For example the Directive refers to subsidiaries of Insurance / Reinsurance undertakings – what about insurance subsidiaries of other companies where the holding company is not an insurer (e.g. banks)?</p> <p>The definition of a Group should be clarified.</p>	in the case of an empty shell, and for a group to a SGAM when it is considered to be a group according to Solvency II. This does not follow from the guidelines but from the Directive.
566.	Institut des Actuaire	Section IV. General Comments	<p>There are many subsidiaries which are simple shells (without salaried members) and which governance is entirely at the Group's level. In France many specificities exist for Groups (SGAM, UGM, UMG, GIE,...). This CP is not designed for them. The level of solidarity to be considered as a group should be specified (the definitions of 1.20 do not cover this)</p>	Noted: see resolution for comment 566
567.	MetLife	Section IV. General Comments	<p>Our key comment is that 1.9 and 1.10 together imply the need to project and stress test capital requirements on a number of different bases and then reconcile the results. We believe that this would place an excessive burden on undertakings prior to Solvency II implementation, particularly for groups.</p> <p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking's own and the approach justified in the context of its own risk</p>	Noted : please refer to resolution of comment 14

			<p>profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.</p>	
568.	MGM Advantage	Section IV. General Comments	Not considered as we are not a Group.	Noted
569.	Steptoe & Johnson LLP	Section IV. General Comments	<p>We fully support the principle that the entity responsible for fulfilling the governance requirements at group level would be responsible for designing, performing and reporting the group forward looking assessment of the undertaking's own risk.</p> <p>(Re)insurance groups differ from each other in their structure and organisation. Insurance holding companies may fulfil different roles within the groups: they may carry out a financial or non-financial, industrial activity, centralise the management and supervision of the group companies, establish the risk appetite for the group and control capital allocation for efficiency purposes.</p> <p>However, their corporate object and sole activity may be limited to holding shares in subsidiaries without actively participating or controlling the subsidiaries' business activities. Therefore, an inactive holding company may not be the company best placed within an insurance group in order to carry out certain tasks on behalf of the group. In those cases, an operating company of the group should be designated to fulfil such tasks.</p> <p>These differences should be considered in EIOPA's guidelines. We</p>	<p>Noted</p> <p>Noted: the entity responsible for fulfilling the governance requirement at group level may not be the holding. Please refer to the interim GL for the System of governance</p>

			<p>understand that, when read in conjunction with the Guidelines on the System of Governance, such reference allows the parent undertaking to delegate the obligation to design and perform the group forward looking assessment of the undertaking's own risk to any entity within the group. We welcome this reference.</p> <p>In order to avoid cross-references between Guidelines and, thus, facilitate the reading of the Guideline, we suggest to include an express reference in the Guideline that the entity responsible for designing and performing the group forward looking assessment of the undertaking's own risk may be other than the parent undertaking.</p> <p>We note that our comment above applies to all Guidelines in this section since the term "entity responsible for fulfilling the governance requirements at group level" is used in each Guideline.</p>	
570.	AMICE	1.47	<p>Guideline 19 – Scope of group ORSA</p> <p>Furthermore, we would suggest that the materiality thresholds as proposed in these interim measures are applied at predefined periods once solvency becomes fully applicable.</p>	Disagree and legally not possible as the Solvency II Directive defines the scope of final Solvency II
571.	Aon	1.47	How will this impact non-insurance entities of a group?	The non insurance entities should be taken into account in the group FLAOR as long as they are in the scope of group supervision. Please also refer to resolution of comment 125
572.	ASSOCIATION OF BERMUDA INSURERS AND REINSURERS (ABIR)	1.47	We note that Bermuda Groups are already required to file an extensive group ORSA covering the entire group and this guideline contemplates the inclusion of all entities within the group both within the EEA and outside the EEA. Guidance on acceptability of a Bermuda Group ORSA given its status relative to equivalence would be appreciated.	Please refer to resolution of comment 156
573.	Deloitte	1.47	Comment:	Agree

	Touche Tohmatsu		<p>The guideline affirms that the scope of the FLA should include at least the entities included in the scope of group supervision. When referring to a group, we assume that the college of supervisors covering the specific group will have already agreed the scope of group supervision.</p> <p>Question1: For organisations whose legal entity basis is expected to change before go live, will organisations be expected to put in place processes to conduct an FLA for entities that will no longer exist in a few years? Further clarification on this matter would be appreciated.</p> <p>Question2: Will specific waivers from national competent authorities be required to exempt from the requirement for a full FLA for these entities that will no longer be part of the Group by the time of Go-Live? [see 1.30] Further clarification on this matter would be appreciated.</p>	<p>Yes, if these entities are considered material, they should be in the scope. it is important to consider that even during the interim period, the conclusions of the FLAOR should be used for the definition of the strategy of the group. Please also refer to resolution of comments 571 and 125</p>
574.	DIMA (Dublin International Insurance & Management)	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 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.</p>	<p>Please refer to resolution of comment 571</p>
575.	German Insurance Association (GDV)	1.47	<p>It should be mentioned that only entities with significant impact on the group level are of importance for group forward looking assessment.</p>	<p>Please refer to resolution of comment 571 and 125</p>
576.	Groupe Consultatif Actuariel Européen	1.47	<p>We understand that the ORSA/FLA will be done based on the structure of the group as a collection of regulated entities rather than as a collection of business units. This is not ideal as it is not the way in which many groups manage their business.</p>	<p>It is only true for single FLAOR document. Even for a single FLAOR document there is no mandatory structure as long as the specific requirements for single</p>

				FLAOR documents are fulfilled.
578.	Insurance Europe	1.47	<p>The scope of Group supervision for performing the ORSA process at group level should appropriately consider the proportionality principle, accordingly to an overall assessment of materiality of risks which may have an effect on group structure and its risk profile. As such, only entities material at the group level should be of importance for the group forward looking assessment.</p> <p>Improvements may also be need in the explanatory text, namely by including in 3.72 the materiality principle (e.g. material specificities instead of all specificities) and clarifying the meaning of d) and b) (contagion risk is the risk of financial difficulties in one or more undertakings spilling over to a large number of other undertakings or the financial system as a whole; is not clear if EIOPA envisages additional capital requirements?)</p> <p>Also is not clear why is just referred in 3.78 of the explanatory text that these entities are not required to carry out a solo ORSA. That should also be referred for third-countries entities and regulated non-(re)insurance undertakings, in order to avoid ambiguity and assure consistency in terms of the content of the explanatory text.</p>	<p>Noted: please refer to resolution of comment 571 and 125</p> <p>Noted (Explanatory Text)</p>
579.	International Underwriting Association of London (IUA)	1.47	It is not clear to us how the relevant entities would be defined and identified prior to the full implementation of Solvency II.	Please refer to resolution of comment 573
580.	Investment & Life Assurance Group Limited (ILAG)	1.47	It is not clear what happens at the group level when different NCAs currently have different requirements with regard to SII requirements.	Please refer to resolution of comment 22
582.	ROAM- Réunion des Organismes d'assurance mutuelle	1.47	<p>(1) Il semble pertinent de garder la possibilité pour un groupe d'effectuer un ORSA groupe comme mentionné au §1.16 qui utilise le verbe "wish", alors que cet acticle lui est en contradiction.</p> <p>(2) Nous attirons l'attention de EIOPA sur la difficulté à définir ce que recouvre la notion de groupe en cohérence avec les principes de</p>	<p>Please refer to resolution of comment 239</p> <p>Noted: please refer to resolution of comment</p>

			<p>gouvernance (qui désigne l'entité responsable ? quels critères ? quelle validation AMSB / Superviseur ? qui doit rendre compte et quel rattachement pour les fonctions clés par rapport à cette entité ?...). Ceci est particulièrement vrai dans le cadre de groupes mutualistes où il n'y a pas de liens capitalistiques.</p> <p>(3) Il est nécessaire de laisser à chaque entreprise une latitude, tant en délais d'implémentation qu'en priorité, pour la mise en place des principes ORSA au niveau solo et ceux applicables aux groupes, afin d'avoir le recul suffisant et les réponses aux posées. Le caractère obligatoire de la mise en place de l'ORSA groupe nous semble donc devoir être différé par rapport aux contraintes « solo ».</p>	<p>14.</p> <p>Disagree</p>
583.	Steptoe & Johnson LLP	1.47	See our general comment on section IV.	Noted
585.	ASSOCIATION OF BERMUDA INSURERS AND REINSURERS (ABIR)	1.48	Reference is made to the "entity responsible for fulfilling the governance requirements" and for Bermuda groups that entity is the designated insurer under Bermuda law. Subsection b of this guideline refers to a supervisor consulting with the "group supervisor" regarding translation. In this regard, in the absence of an overarching statement relating to third country group supervisors and for the avoidance of doubt does this include group supervisors who are outside the EEA?	Please refer to resolution of comment 156
586.	Deloitte Touche Tohmatsu	1.48	<p>Suggestion: Referring, to the bullet point a), the guideline seems to assign to the group supervisor the ultimate responsibility for deciding on the single group FLA document. If it is the case, it will be beneficial to clearly state it, in order to avoid different application of the same guideline across countries. It would be useful for undertakings to have some input into this decision making process in the interests of transparency.</p> <p>Question: Taking into account the entity-by-entity assessment as the principle we have the following question. Analysing the possibilities for the report to supervisory authorities (a single report or group and subsidiaries reports),</p>	<p>Please refer to comment 20</p> <p>Noted: this is possible according to EIOPA as long as the requirement of Guidelines 20 and 23 and article 246 are met.</p>

			we find that for some groups this requirement does not match with the way the group manages the business. If one of the aims of the FLA is for management purposes, should there be a possibility where the group could be able to apply for a single report for some of the subsidiaries together, if those companies have similar (even the same) SoG? (see also 1.30)	
587.	DIMA (Dublin International Insurance & Management)	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>	<p>Please refer to resolution of comment 20</p> <p>Disagree: inconsistent with some local European regulation.</p>
589.	German Insurance Association (GDV)	1.48	The guideline addresses the possibility of performing and reporting a single forward looking assessment of the undertaking's own risks conditioned by the approval of all members of the Supervisory College which are involved in the solo supervision of the group entities. It would 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.	Please refer to resolution of comment 20 and 148
590.	Groupe Consultatif Actuariel Européen	1.48	This article covers the reporting to the Supervisor. Another issue is the confidentiality of the information towards the public and competitors in the SFCR. The ORSA includes namely business secrets.	During the preparatory period there is no SFCR requirement.
592.	Institut des	1.48	This article covers the reporting to the Supervisor. Another issue is the	Please refer to

	Actuaires		confidentiality of the information towards the public and competitors in the SFCR. The ORSA includes namely business secrets.	resolution 590
593.	Insurance and Reinsurance Stakeholder Group (IRSG)	1.48	<p>The guidelines requires more than 4 detailed reports (guideline 20) by the undertaking and the supervisor but it still does not solve the important issue of the language in groups. Guideline 20 still does not refer on English as the common and accepted language.</p> <p>The value of solo reports and group reporting is also questionable.</p>	<p>Disagree.</p> <p>The language of the group ORSA should be agreed by the supervisor where the entity responsible for fulfillment of governance requirement at group level is licenced.</p>
594.	Insurance Europe	1.48	<p>It should be made clear when an application can be made during the preparatory phase (prior to 2014?) and to which supervisor.</p> <p>Guideline 20 is also inconsistent with Level 1. Accordingly with art 246, the decision on the single document covering all the forward looking assessments is to be taken by the group supervisor, after consulting the other members of the college; is not required a joint decision.</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 is 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>	Please refer to Resolution of comment 587 and 589
595.	International Underwriting Association of London (IUA)	1.48	Please see our answer to 1.47.	Noted
596.	Steptoe &	1.48	See our general comment on section IV.	Noted

	Johnson LLP			
597.	AMICE	1.49	<p>Guideline 21 – Assessment of the impact of group specific risks on overall solvency needs</p> <p>A rather qualitative analysis should be welcomed at least for the interim period.</p> <p>We reiterate the need for further clarification on what is expected by the risk management function at group level. We have strong reservations about its feasibility. It is in any case necessary to define consistency rules between the expected risk management at solo level and at group level.</p>	<p>Disagree</p> <p>Noted : the groups and undertakings can organize the way they want as long as they comply with the requirements.</p> <p>The Guideline has been redrafted to focus on the FLAOR specific requirement (assessment)</p>
598.	Deloitte Touche Tohmatsu	1.49	<p>Comment:</p> <p>We understand from this guidelines that specific items should be performed at group level such as stress testing that could, for illustration, assess the impact of the scaled up concentration risk at the group level (raised by country risk, currency risk,...). If so, we would welcome further clarification whether this stress testing is required for group specific risks, also specifically for the interim period.</p>	<p>Yes the group FLAOR should cover all the material risks at the level of the group</p>
601.	Insurance Europe	1.49	<p>The explanatory text, nevertheless not subject to consultation, will be used as guidance by NCAs and undertakings. As such, EIOPA should consider the need to revisit the explanatory texts, not to provide an exhaustive list, but to clarify some concepts that may raise uncertainty, such as:</p> <ul style="list-style-type: none"> - material quantifiable group specific risks not considered in the group SCR calculation (3.85); - meaning of "...describes the interrelationship between the risks" (3.86); - quantifiable risks not captured by means of article 230, 231, 233 (3.87); - consider that contagion risk is not a standalone risk (3.88); - which risks arising from IGT cannot be identified at solo level, moreover 	<p>Noted</p>

			<p>considering that IGT are eliminated at group level (3.88);</p> <p>-delete d) (already considered in c) (3.88);</p> <p>We further underline that 3.89 b) is accordingly with Level 1 just required when method 1 is used.</p>	
602.	International Underwriting Association of London (IUA)	1.49	We do not believe that the proposed requirement is feasible prior to the full introduction of Solvency II, unless on a best-estimate basis.	Please refer to resolution of comment 14
603.	ROAM- Réunion des Organismes d'assurance mutuelle	1.49	Est-il attendu qu'une fonction gestion des risques "niveau groupe" apporte les informations sur le niveau et la quantification des risques au niveau groupe? Nous émettons d'importantes réserves sur la faisabilité. Il est en tout état de cause nécessaire de définir les règles de cohérence attendues entre la gestion des risques au niveau solo et celle au niveau du groupe.	Noted
604.	Stephoe & Johnson LLP	1.49	See our general comment on section IV.	Noted
605.	AMICE	1.50	<p>Guideline 22 – General rule for group forward looking assessment of the undertaking's own risks</p> <p>The horizontal groups are legal structures that create links of financial solidarity between its members rather than transfer own funds. This clarification can be added to the text as an additional factor to be taken into consideration.</p>	Please refer to resolution of comment 565
606.	CRO Forum and CFO Forum	1.50		
607.	Deloitte Touche Tohmatsu	1.50	<p>Comment:</p> <p>The guideline requires groups to "include in the record of the group FLA of the undertaking's own risk at least the description of "how" the following factors were taken into considerations". The word "how" does not clarify if, with reference to the topics listed, each group could decide to not report those analysis in the FLA report and to mention them only in the record of each assessment.</p>	Noted

			Suggestion: Considering the relevance of those topics in the group supervision, we think it would be better to clarify that the group should document both the results of those analysis and the description of the process it has adopted for assessing those items	
608.	DIMA (Dublin International Insurance & Management)	1.50	Application at group level should not be required before Solvency II comes into force. It should be ensured that the Guideline 3 on thresholds applies for a) – c).	Noted please refer to resolution of comment 14
609.	German Insurance Association (GDV)	1.50	The implementation at the group level should follow in a next step after Solvency II comes into force (See our general comment).	Noted please refer to resolution of comment 14
610.	Groupe Consultatif Actuariel Européen	1.50	We agree with this guideline and stress the link to the group capital management function. Here, evidence needs to be provided that the group actually operates on the basis it assumes in the ORSA Clarification Required: in (d) do the 'individual strategies' refer to specific strategies with respect to Own Funds only or more generally?	More generally
612.	Insurance Europe	1.50	Implementation of Pillar I calculation rules at group level should follow in a next step after Solvency II comes into force. Otherwise, it should be ensured that the Guideline 3 on the tresholds apply for a) – c).	Please refer to resolution of comment 608
613.	International Underwriting Association of London (IUA)	1.50	The requirement should not apply to groups before implementation of Solvency II.	Noted: please refer to resolutioun of comment 14
614.	ROAM- Réunion des Organismes d'assurance mutuelle	1.50	(1) Dans le cadre d'une SGAM, on évoque (dans les principes de gouvernance) la solidarité financière entre les entités et non la transférabilité des fonds propres (attention pas de lien capitalistique dans le cas d'une SGAM) ; ce terme pourrait venir compléter la liste mentionnée au b) (2) We expect the	(1) Please Refer to resolution of comment 565 (2) We expect the

			(2) Comment faut-il comprendre la notion "alignment of individual strategies..." « transferability or fungibility of own funds »? Quel type de preuve est attendu?	groups to seriously consider these items and explain how they were taken into account.
615.	Steptoe & Johnson LLP	1.50	See our general comment on section IV.	Noted
616.	AMICE	1.51	Guideline 23 – Specific requirements for a single forward looking assessment of the undertaking 's own risks (based on the ORSA principles) document The different levels of authority between the AMSB of an insurance group should be addressed in the governance context. The interlinks between the group AMSB are not always easy to implement and require time and flexibility.	Noted: Please also refer to guideline 53 of CP of a proposal on GL for a System of governance
617.	Deloitte Touche Tohmatsu	1.51	Comment: Analysing the possibilities for the report to supervisory authorities (a single report or not), we find that for some cases this requirement does not match with the way the group manages the business, specially when the groups is composed of monoline and non-monoline companies, and the group manage the monoline companies together with the parent company because they have a centralised risk management system. However the non-monoline company has a different risk management system.	Please refer to resolution of Comment 586
618.	DIMA (Dublin International Insurance & Management)	1.51	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. Also, it should be clarified that: <input type="checkbox"/> the scope is re/insurance subsidiaries; and <input type="checkbox"/> the objective of the "explanation of how the subsidiaries are covered" considering that according with Articles 246, these subsidiaries are required to comply with Article 45.	Noted: EIOPA does not think it is relevant to specify more the criteria to allow a Single FLAOR document during the interim period Please refer to resolution of comments 20 and 148

620.	Insurance Europe	1.51	A single ORSA should be allowed where the group supervision is already in place, and the group has a group financial planning and risk management processes, and also for sub-groups. Also should be clarified that: - the scope is (re)insurance subsidiaries; - the objective of the "explanation of how the subsidiaries are covered" considering that accordingly with art 246 these subsidiaries have to comply with art 45 requirements.	Please refer to resolution of comment 618
621.	International Underwriting Association of London (IUA)	1.51	Where there is already group supervision, a single ORSA should be permitted.	Please refer to resolution of comment 618
622.	ROAM- Réunion des Organismes d'assurance mutuelle	1.51	Il s'agit d'un cas d'autorité entre les AMSB d'un groupe qui doit être traité dans le cadre de la gouvernance. Les liens entre les AMSB du groupe ne sont pas aisés à mettre en oeuvre et demanderont du temps et de la flexibilité.	Noted
623.	Steptoe & Johnson LLP	1.51	See our general comment on section IV.	Noted
624.	CNA Insurance	1.52	Please see comments related to Guideline 14 (paragraph 1.42).	Noted
625.	DIMA (Dublin International Insurance & Management)	1.52	Please see comment at 1.47	Noted
627.	Groupe Consultatif Actuariel Européen	1.52	The wording here is particularly convoluted and could be significantly improved. For example: "For groups using an internal model, the group level ORSA should make clear which entities within the group do not use the internal model to calculate their SCR and explain why this is the case."	The Guideline was redrafted
629.	Insurance Europe	1.52	Is not clear the pure exclusion of method 2. The application for a IM from a related undertaking (solo SCR) or the participating undertaking (group	Guideline was reworded with no reference to

			SCR) do not prevent accordingly with the Solvency II Directive the application of method 2. Also the last paragraph seems to just apply to applications under art 231.	articles 230 and 231 Please refer to resolution of Comment 628
631.	ROAM- Réunion des Organismes d'assurance mutuelle	1.52	Cet article renvoie au calcul du SCR groupe (dont utilisation de MI partiels), qui n'est à ce jour pas stabilisé.	Noted : please refer to resolution of Comment 14
632.	RSA Insurance Group	1.52	For the reasons given in 1.26 above, there should be no requirement to calculate the Group SCR on a Solvency II basis until the Solvency II regime takes effect. Details of solo entities in the group which do not intend to use the internal model to calculate their SCR and the rationale for this decision is information which is relevant to the internal model approval process, but not to an internal assessment of capital needs. The guideline must not lose sight of the purpose of the forward looking assessment which is as part of an undertaking's internal risk and capital management processes. It is not there to provide information to regulators which will in any case be provided as part of the internal model application.	Please refer to resolution of comment 14 EIOPA considers that this GL is useful to make sure the group assesses the appropriateness of the scope of the internal model, in relation to the aspect referred to in the Guideline, on a continuous basis.
633.	Steptoe & Johnson LLP	1.52	See our general comment on section IV.	Noted
635.	Aon	1.53	What happens if the parent company is located in a non-equivalent non-EEA country and the subsidiary is in the EEA what is the requirement on the subsidiary and group?	Please refer to resolution of comment 156
636.	DIMA (Dublin International Insurance & Management)	1.53	The guideline is silent in regard to equivalence in the interim period including for countries in the first wave of equivalence assessments.	Please refer to resolution of comments 156 and 20

637.	German Insurance Association (GDV)	1.53	It is not clear what is meant by "in the same manner". A requirement that the group carries out the assessment of the overall solvency needs for third-country undertakings in the same way as for EEA undertakings could lead to a de-facto implementation of Solvency II rules in addition to local rules to third-country undertakings – independent from any equivalence decision. In our opinion this is not the aim of Solvency II. It should be possible for groups to carry out the assessment of the overall solvency needs for third-country undertakings on the basis of local rules or using simplifications. Therefore, we suggest a redraft to "carry out the assessment comparable to the assessment for EEA undertakings".	The guideline as been redrafted to precise the scope (overall solvency needs) and reword the requirement ("consistent" instead of "in the same manner")
638.	Insurance Europe	1.53	The requirement that the group carries out the assessment for third-country undertakings "in the same manner" as for EEA undertakings should not lead to a de-facto implementation of Solvency II rules in addition to local rules to third-country undertakings. Groups should be allowed to carry out the assessment for third-country undertakings on the basis of local rules. Also paragraph 3.95 of the explanatory text is significantly unclear, besides referring to disclosure (and not reporting) requires information on third countries to be separated, which is inconsistent with the previous Guidelines on the group forward looking assessment which require a report's structure more based on risks.	Please refer to resolution of comment 637
639.	International Underwriting Association of London (IUA)	1.53	It is not clear to us whether equivalence rules may apply in the interim period and if so, what that would imply capital assessment.	Please refer to resolution of comment 637
641.	Steptoe & Johnson LLP	1.53	See our general comment on section IV.	Noted
642.	The Bermuda Monetary Authority (BMA)	1.53	the Authority notes that there is no reference to the third country supervisor where a group is based in a third country.	Please refer to resolution of comment 156
644.	CRO Forum	Compliance and	In line with Article 16(1) of the EIOPA Regulation, we would expect that as	Disagree; the nature of

	and CFO Forum	Reporting Rules General Comments	part of consistent, efficient and effective supervisory practices, that the guidelines should focus on the framework for supervision. The wording 'should ensure that' effectively sets requirements that must be met by both undertakings and supervisors that goes beyond guidelines and recommendations when 'comply or explain' is applied.	Guidelines is a convergent approach
645.	DIMA (Dublin International Insurance & Management)	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.	See Feedback Statement 'comply or explain mechanism'
648.	Groupe Consultatif Actuariel Européen	1.56	Companies will be interested to know if their regulator plans to comply at the earliest possible date. It should be a requirement on NCAs known whether they will comply by the earliest date possible.	The answer of the comply or explain mechanism will be published by EIOPA; see Feedback Statement 'comply or explain mechanism'
649.	MetLife	Impact Assessment – General Comments	In general we agree that issuing preparatory guidelines on the forward looking risk assessment is useful. Our key comment is that 1.9 and 1.10 together imply the need to project and stress test capital requirements on a number of different bases and then reconcile the results. We believe that this would place an excessive burden on undertakings prior to Solvency II implementation, particularly undertakings with multiple business lines and / or undertakings with entities located in multiple jurisdictions. This is not sufficiently reflected in the impact assessment. We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking	Noted Disagree; for those assessments related to pillar I capital requirements EIOPA will provide technical specifications; proportionality applies and therefore FLAOR should reflect the nature and complexity of the undertaking, its risks and its business

			<p>should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Esch undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.</p>	<p>Partially agree; the assessments which are linked to pillar I and OMD II are now linked to the timing of reporting, meaning that the first assessments on those issues will be requested during FLAOR 2015</p> <p>FLAOR should enable undertakings to have a Forward looking assessment, meaning to prepare for Solvency II and not for Solvency I</p>
650.	CRO Forum and CFO Forum	Impact Assessment – General Comments	Generally, in paragraphs 2.1-2.8 it is difficult to understand the points being made.	Noted
651.	RSA Insurance Group	2.1	EIOPA guidelines on the ORSA already exist and are in the public domain. The impact assessment should therefore focus solely on the impact of applying the guidelines ahead of the implementation of Solvency II. In many cases the advantages enumerated in this section relate to the benefits of forward looking assessment itself, not its early implementation.	Disagree The 'Option O' (not issuing Guidelines) is included.
652.	Deloitte Touche Tohmatsu	2.1		
653.	CNA Insurance	2.3	CICL agrees with the general costs listed and would like to emphasize that the potential magnitude of the first cost should be a critical factor	Disagree CostS are not related to

			considered as it relates to requiring certain quantitative thresholds within the Guidelines.	preparatory phase; they would occur for the final Solvency II as well.
655.	DIMA (Dublin International Insurance & Management)	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.	Noted 2.3 reflect the cost for undertakings if no preparatory Guidelines would be issued.
656.	Insurance Europe	2.3	The guidelines appear to introduce reporting ahead of the implementation of Solvency II. This entails additional costs and 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 should only be reported internally for information purposes.	See 655
657.	CRO Forum and CFO Forum	2.3	Item (a) could also be a cost of issuing preparatory guidelines – i.e. processes and systems put in place or reassessment of priorities in Solvency II projects in order to meet the Guidelines in a compliance oriented approach rather than a phasing-in approach. Additional costs might also be needed later in the event there are changes to those Guidelines when Solvency II is fully implemented.	Agree Those assessment more dependant on pillar I will only be required once OMD II is finale; therefore there are no additional cost out of uncertainty
658.	Deloitte Touche Tohmatsu	2.3	Comment: Agree with points a - b - c - d Also having a preparatory phase provides a mechanism through which NCAs and organisations can discuss current designs and progress. This provides an opportunity for any discrepancies between a firm's response to preparatory guidelines against the NCAs expectations to be resolved in advance of "go-live". As per your point D, this should mitigate against final	Noted

			rush costs and errors being made.	
659.	CNA Insurance	2.5	CICL agrees with this potential benefit, but notes that a forward looking assessment of an undertaking's own risks can be achieved without the undertaking being subjected to Solvency II quantitative requirements that are not yet effective, and in some cases not yet resolved, which therefore subjects an undertaking to dual regulatory requirements.	Noted
660.	Deloitte Touche Tohmatsu	2.4	Comment: see comment 2.3	Noted
661.	MetLife	2.5	<p>We do not agree that 2.5 (a) is necessarily an advantage to the industry.</p> <p>We believe that bringing in all aspects of the ORSA guidelines whilst Solvency I is still in force would place an excessive burden on undertakings prior to Solvency II implementation, particularly undertakings with multiple business lines and / or undertakings with entities located in multiple jurisdictions. This is not reflected in the impact assessment.</p> <p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking's own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the</p>	<p>Noted</p> <p>2.5 reflect the cost for undertakings if no preparatory Guidelines would be issued.</p> <p>See 649</p>

			undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.	
662.	CRO Forum and CFO Forum	2.5	This paragraph is particularly difficult to understand.	Noted; those are the benefits if no preparatory Guidelines would be issued by EIOPA.
663.	Deloitte Touche Tohmatsu	2.5	<p>Comment: Disagree with points a – c, the guidelines ensure a base level of practices and procedures with regards to the FLA.</p> <p>Not providing the guidelines could have generate short term benefits that could easily become shortcomings in the medium-long term for those undertakings that would not have been prepared it properly.</p> <p>Getting the FLA on the AMSB agenda is a key success criteria of the guidelines, without the preparatory phase there is a risk that the Board is making strategic decisions without a full assessment of risks and their impact on capital needs (and how this is expected to change when SII comes into force).</p>	<p>See 662</p> <p>Noted</p> <p>Disagree; the assessment of the overall solvency needs is to be conducted regardless of the finalisation of OMD II on best effort basis.</p>
664.	CNA Insurance	2.7	CICL agrees with the potential benefit identified in b), but notes that a forward looking assessment of an undertaking's own risks can be achieved without the undertaking being subjected to Solvency II quantitative requirements that are not yet effective, and in some cases not yet resolved, which therefore subjects an undertaking to dual regulatory	Disagree; the assessment of the overall solvency needs is to be conducted regardless of the

			requirements.	finalisation of OMD II on best effort basis.
665.	CRO Forum and CFO Forum	2.6	This paragraph is particularly difficult to understand.	Noted
667.	Deloitte Touche Tohmatsu	2.7	<p>Comment: Agree with point B, strategic decisions should be informed by the risks associated with them and the ORSA provides the mechanism through which the AMSB are engaged with this MI.</p> <p>Comment2: In the UK, there is currently a regulatory focus on Conduct risk and ensuring that organisations have in place a culture that supports customer centricity and ensures customer outcomes are considered in product decisions. As such, we would expect one of the ways in which organisations evidence this culture is by ensuring conduct risk, and associated conduct risk appetite, is one of the risks included in the ORSA even if this is not measured/ managed fully on a capital basis.</p> <p>Question: To what extent would EIOPA expect conduct risk to feature in the ORSA as a key risk and should the guidelines specify or make reference to this in some way?</p> <p>Suggestion: Perhaps this could be included in the explanatory text underpinning guideline 17 – Link to the strategic management process and decision making framework.</p> <p>This could make clear that in addition to integrating the outcome of</p>	<p>Noted</p> <p>As the FLAOR is the undertaking's own assessment of the risks it is facing EIOPA would expect that this risks is included where appropriate. The Guidelines will not give guidance to what extend individual risks needs to be treated.</p> <p>The key risks in the FLAOR should be proportionate to the risks the undertaking is facing.</p> <p>EIOPA does not consider it apporopriate to add conduct risk to the Explanatory Text in this place or any other. There is a number of</p>

			<p>solvency analysis into strategic decision making, consumers outcomes of pursuing those strategic decisions should also be taken into account. That the risk of being unable to meet consumer interests includes both an assessment of the organisations ability to remain a going concern (through capital analysis) but also whether the product offerings, their pricing, delivery and management are appropriate to the consumers best interests (which may be assessed on a non-capital basis).</p>	<p>risks not specifically mentioned that have to be taken into account if they are material.</p>
668.	Groupe Consultatif Actuariel Européen	2.8	<p>We agree that on balance preparatory guidelines should be introduced. The issue then is the scope, scale and phasing of the preparatory guidelines vis-a-vis the eventual full implementation.</p>	Noted
669.	Investment & Life Assurance Group Limited (ILAG)	2.8	<p>We agree that the provision of guidelines is helpful.</p>	Noted
670.	MetLife	2.11	<p>We agree that supervisory requirements with regards to risk management should be harmonised. We do not agree that this necessarily means requiring compliance with all aspects of the ORSA principles prior to Solvency II. In particular we note that full harmonisation is not likely to be possible until the Pillar 1 requirements are finalised and that the quantitative requirements as they currently stand would place an excessive burden on undertakings whilst Solvency I remains in force.</p>	See 657
671.	Deloitte Touche Tohmatsu	2.11	<p>Comment: Agree with the statement.</p> <p>Specifically from the perspective of a group operating in different Member States, a different approach to FLA by the NCAs would have made the group assessment (and the supervisory activity) much more complicated.</p>	Noted
672.	Deloitte Touche Tohmatsu	2.12	<p>Comment: Agree with the point that the AMSB should be more involved in the processes of risk management and the forward looking assessment of the undertaking's own risk and solvency needs.</p>	<p>Noted</p> <p>The role of the AMSB is</p>

			<p>However, we think that it would be beneficial to get some further principles or explanatory text around defining the AMSB and the extent to which delegation of authority with respect to the guidelines is allowed.</p> <p>Comment: As per our comments in response to 1.31 above, we believe the ambiguity around how the AMSB is defined and the flexibility around the level to which it may delegate its responsibilities may undermine this objective.</p>	more defined in the System of Governance, to which the Guidelines on FLAOR are part of.
673.	DIMA (Dublin International Insurance & Management)	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.	Agree; this is the underlying assumption of the Guidelines
675.	Insurance Europe	2.14	The principle of proportionality should guarantee that each undertaking has the opportunity to develop its own forward looking assessment process that depends on its own risk, calibrated with entity-specific assumptions in terms of organizational structure and risk management which takes into account the nature and complexity of the risks inherent to its business.	Agree; see 673
676.	MetLife	2.14	We agree that supervisory requirements with regards to risk management should be harmonised. We do not agree that this necessarily means requiring compliance with all aspects of the ORSA principles prior to Solvency II. In particular we note that full harmonisation is not likely to be possible until the Pillar 1 requirements are finalised and that the quantitative requirements as they currently stand would place an excessive burden on undertakings whilst Solvency I remains in force.	<p>Agree</p> <p>Those assessment more dependant on pillar I will only be required once OMD II is finale; in addition EIOPA will provide technical specifications for those assessments</p>
677.	Deloitte Touche Tohmatsu	2.14	<p>Comment:</p> <p>Agree with the statement. Including the FLA in the key areas to be addressed by the preparatory guidelines, it will allow insurance companies to undertake the improvements aimed at enhancing their risk management system by remaining focused on the double ambition:</p>	Noted

			complying with the new regulation whilst determining a solution shaped on their specific business model/organisation	
678.	Investment & Life Assurance Group Limited (ILAG)	2.16	We agree that proportionality is essential.	Noted
679.	CRO Forum and CFO Forum	2.16	Paragraph (a) implies that some of the Guidelines are prescriptive requirements rather than principle based. Again, we are strongly opposed to any Guidelines that would be prescriptive and not principles oriented. Those Guidelines that are not principles based in the opinion of EIOPA should be immediately communicated to the industry so that we may engage an active discussion with EIOPA on these points.	Agree; see new wording
680.	Deloitte Touche Tohmatsu	2.16	<p>Comment: Wording "In most cases": Are there any guidelines that are not seen as principle based and should be considered a rule?</p> <p>Are there any instances in which the guidelines will not apply in preparatory phase? For example, if an entity is being sold in full or part to another entity, will the organisation still be required to put in place processes to conduct an ORSA for that entity (even though it is not expected to exist in go-live)?</p> <p>Suggestion: It could be valuable to make it clear whether the interim measures apply to the current legal entity structure or to the legal entity structure expected to be in existence at go live (either in the cover note for the consultation on interim measures or within each of the implementing measures)</p>	<p>See comment 679</p> <p>Inherent in the Guidelines is only a threshold for the requirement of certain assessments.</p> <p>The Guidelines apply for all undertakings from 1 January 2014.</p>
681.	Deloitte Touche Tohmatsu	2.18	<p>Comment: The thresholds imply that those companies with a relatively higher market share will need to implement these guidelines a year in advance of their smaller counterparts (as per 1.26).</p>	The Guidelines apply to all companies; the threshold only applies to certain requirements.

			<p>EIOPA have proposed threshold conditions so as to help NCA's manage the "significant change" however the threshold conditions themselves require the relatively larger, and presumably more complex firms, to implement this significant change a year earlier than their counterparts. More clarification on the justification on this threshold would therefore be welcome, .e.g is the threshold condition therefore to help NCAs manage their workload or to assist firms manage the step change?</p>	<p>See comment 680 and Feedback Statement 'Proportionality'</p>
682.	Deloitte Touche Tohmatsu	2.19	<p>Comment: We agree on applying thresholds in order to take a proportionate approach. Besides, we consider that it would be useful to specify that NCAs should also include in their yearly reporting to EIOPA the progress achieved by the undertakings that will not fall within the thresholds. It is beneficial to ensure that all the undertaking will be able to comply with the Solvency II requirements once it is fully applied. It should be specified clearly in guideline 2.</p>	<p>Noted See Feedback Statement 'Progress Report'</p>
683.	AMICE	2.21	<p>The assessment of the compliance with regulatory capital requirements would be very complex as the Pillar I requirements are not available. Setting a threshold does not provide any relief to the firms subject to this requirement.</p>	<p>Agree Those assessment more dependant on pillar I will only be required once OMD II is finale</p>
684.	Groupe Consultatif Actuariel Européen	2.21	<p>Observation: The existence of separate thresholds for</p> <ul style="list-style-type: none"> (i) Assessment of Overall Solvency Needs (ii) Assessment versus Regulatory Requirements (iii) Assessment of risks versus Standard Formula <p>is not immediately clear from paragraphs 1.25-1.29.</p> <p>Recommendation: It would be clearer to indicate (perhaps in a table) specifically which guidelines apply to all insurers and which apply only to those above the threshold: e.g. Guidelines 14 and 16 appear to apply only above the threshold</p>	<p>No threshold applies for the assessment of overall solvency needs.</p> <p>Noted</p>

685.	AMICE	2.23	We do not see how EIOPA would changed the guidelines to accommodate the postponement of Pillar I issues. More information should be provided.	See comment 683
686.	MetLife	2.30	<p>We agree that the ORSA process is a self assessment tool.</p> <p>This supports our proposal that in its forward looking risk assessment, prior to the introduction of Solvency II, each undertaking is required to project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself.</p>	<p>Noted</p> <p>Agree; those assessment more dependant on pillar I will only be required once OMD II is finale. The Guidelines should help to prepare for Solvency II and not Solvency I.</p> <p>The undertaking decides on the appropriate stress tests for its FLAOR.</p>
687.	CRO Forum and CFO Forum	2.31	Do these preparatory Guidelines replace the draft L3 Guidelines on the ORSA published in July 2012, or are they intended only for the interim preparatory phase? I.e. for the full application of Solvency II, is the intention to revert back to the Guidelines published in July 2012 or to move on to some evolution of the preparatory Guidelines?	The preparatory Guidelines are based on the Final Report of 2012 and apply until the final legal framework of

				Solvency II is in force. EIOPA might revise future Guidelines in the light of experience gained during the preparatory phase.
688.	MetLife	2.32	<p>We do not agree that the guidelines have been sufficiently amended to accommodate the postponement of the Pillar 1 issues. They still imply a need to project and stress test capital requirements on a number of different bases, in particular the unfinalised Solvency II Pillar 1 basis and then reconcile the results. We believe that this would place an excessive burden on undertakings prior to Solvency II implementation, particularly undertakings with multiple business lines and / or undertakings with entities located in multiple jurisdictions.</p> <p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be</p>	<p>Agree; those assessment more dependant on pillar I will only be required once OMD II is finale. The Guidelines should help to prepare for Solvency II and not Solvency I.</p> <p>See comment 686</p>

			produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.	
689.	CNA Insurance	2.33	Please see comments related to Guidelines 14, 15, and 16 (paragraphs 1.42, 1.43, and 1.44).	See comment 485
690.	FEE	2.33	It will be difficult for companies to adapt their forward-looking assessment of their own risks by taking into account of multiple regulatory capital bases.	Noted; those assessment more dependant on pillar I will only be required once OMD II is finale. The Guidelines should help to prepare for Solvency II and not Solvency I. EIOPA will provide technical specifications for those assessments.
691.	Investment & Life Assurance Group Limited (ILAG)	2.33	We do not understand how to comply with the SII capital requirements and technical provisions, when these have not been finalised.	See comment 690
692.	CNA Insurance	2.34	CICL believes that the goal of obtaining information on the forward looking assessment of an undertaking's own risks to improve insight into the risk profile of undertaking is an achievable goal without subjecting the undertaking to, in some cases, yet unresolved quantitative requirements. The second goal stated in this paragraph..."to be able to monitor the preparation for Solvency II quantitative requirements" is premature given those quantitative requirements are not yet finalized in all cases, and also excessive as it subjects an undertaking to dual regulatory requirements.	See comment 690
693.	Deloitte Touche Tohmatsu	2.33	Comment: Typo "an forward"	Agree; see new wording
694.	Deloitte	2.34	Comment:	Agree; see new wording

	Touche Tohmatsu		„a decision to forego the report for the preparatory phase was not considered to be optional“. The wording is unnecessarily complicated.	
696.	Munich Re	2.38	We welcome the approach that no supervisory action by the NCA is envisaged after conducting the assessments as mentioned in 2.45.	Noted; see feedback statement 'Supervisory actions' and 'Enforcement measures'
697.	AMICE	Question 1	As stated in our previous comments, AMICE members believe that the assessment on the continuous compliance with the regulatory capital requirements on the requirements on technical provisions as well as the assessment of the significance of the deviation of an undertaking's risk profile should be conducted on a Solvency I basis or/and on a qualitative basis only. An approximation on a Solvency II basis should not be mandatory.	Those assessment more dependant on pillar I will only be required once OMD II is finale. The Guidelines should help to prepare for Solvency II and not Solvency I. EIOPA will provide technical specifications for those assessments.
698.	DIMA (Dublin International Insurance & Management)	Question 1	This is an additional cost to firms and should be at their own discretion depending on their own project plans and preferences.	See comment 697
699.	Groupe Consultatif Actuariel Européen	Question 1	<p>- We welcome the need to perform the FLA in general and EIOPA's encouragement for a clear and transparent dialogue between the undertaking and the NCA while at the same time, no supervisory action is envisaged after conducting the assessments as mentioned in 2.45. This view should be more highlighted and formalized in the guidelines to decrease the undertaking's uncertainty about the preparatory phase – in particular given the current state of preparedness of the undertakings.</p> <p>- We do not agree that the assessment of Own Solvency Needs is irrespective of the regulatory regime in place. The the regime defines the technical specification for the calculation of the technical provisions. This has considerable influence on the results for long term guarantee business. We expect that in practice, all 3 assessments of the FLAOR (i.e. assessment of the overall solvency needs, assessment of the deviation of</p>	<p>Noted; see feedback statement 'Supervisory actions' and 'Enforcement measures'</p> <p>Disagree; the assessment of the overall solvency needs is to be conducted regardless of the finalisation of OMD II</p>

			<p>the standard formula assumptions from the own risk profile, continuous compliance with regulatory capital requirements) are interconnected.</p> <p>- According to 2.18 EIOPA believes that it is not appropriate for NCA to expect that all guidelines are met in the same way (see 2.18) by all undertakings. This could lead to ambiguity.</p>	<p>and therefore the final pillar I on a best effort basis.</p> <p>The Guidelines apply to all undertakings; the threshold only applies for certain more technical assessments during the preparatory phase.</p>
700.	Insurance Europe	Question 1	This is an additional cost to undertakings and should be at their own discretion depending on their own project plans and preferences.	Disagree
701.	ROAM-Réunion des Organismes d'assurance mutuelle	Question 1	Comme mentionnée supra, la mise en place d'une évaluation du respect permanent des exigences de fonds propres réglementaires, ainsi que d'une évaluation de l'importance de la déviation du profil de risque de l'entreprise n'est possible qu'une fois la formule standard connue. Ce domaine n'apparaît donc pas prioritaire dans le cadre d'une phase de préparation.	See comment 697
702.	CRO Forum and CFO Forum	Question 1	This would add additional constraints on firms at a time when they are still regulated on a Solvency I basis. See our Cover Note	See comment 697
703.	DIMA (Dublin International Insurance & Management)	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.	Agree; final Guidelines do not comprise examples
704.	Groupe Consultatif Actuariel Européen	Question 2	<p>Providing examples of the process would hinder the flexibility for undertakings to devise their own.</p> <p>An example of a supervisory report or detail listings of what supervisors would need to know could be beneficial (although partly included in the Explanatory Text to Guideline 10.</p>	<p>See comment 703</p> <p>Noted</p>

705.	Insurance Europe	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 shall detract from the key question of how firms see their own business.	See comment 703
706.	ROAM- Réunion des Organismes d'assurance mutuelle	Question 2	Un préalable à une telle demande serait qu'un exemple de rapport standard soit défini avec les autorités nationales compétentes par des discussions de place.	See comment 703
707.	AMICE	Question 3	We fully support EIOPA's decision to allow (and not to impose) groups to produce a single forward looking assessment of undertaking's own risks document.	Noted
708.	CRO Forum and CFO Forum	Question 2	As explained in response to 1.36, an ORSA report, whether internal or to the supervisor, should reflect the nature of the firm's specific approach to ORSA and therefore can be very different from one firm to another.	See comment 703
709.	DIMA (Dublin International Insurance & Management)	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".	Agree; the preparatory Guidelines allow for a single FLAOR report
710.	Groupe Consultatif Actuariel Européen	Question 3	This should be allowed as it would be an unnecessary burden for firms to develop separate processes for the preparatory phase and then to change them when Solvency II is in place. Also it would allow supervisors to review the quality of the solo-entity information in the single documents.	See comment 709
711.	Insurance Europe	Question 3	Production of a single document would reduce costs and allow undertakings 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“.	See comment 709
712.	ROAM- Réunion des	Question 3	Dans la mesure où cela reste une faculté offerte au groupe, qui permet de mieux cerner les problématiques groupe dans l'ORSA, nous sommes	See comment 709

	Organismes d'assurance mutuelle		favorable à une telle proposition.	
713.	AMICE	Question 4	An ORSA policy should not be further detailed and flexibility should be provided to undertakings.	Agree; proportionality principle applies to report, too
714.	DIMA (Dublin International Insurance & Management)	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.	Partially agree; the policy on FLOAR can be part of the risk-management policy, but clearly needs to state the principles for processes and procedures to be followed for a FLAOR (i.e. as a separate chapter of the risk-management policy).
715.	Groupe Consultatif Actuariel Européen	Question 4	This is not necessary, it should be left to undertakings to devise their own	See comment 714
716.	Insurance Europe	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 undertaking should be allowed to demonstrate how its risk management approach meets the requirements of the ORSA rather than having to produce another document.	See comment 714
717.	ROAM-Réunion des Organismes d'assurance mutuelle	Question 4	Il s'agit d'un processus de formalisation avancé, qui demande beaucoup de travail et donc une stabilisation des exigences afin de pouvoir être convenablement mené. Les liens entre politiques requises par la gestion des risques est également à mieux appréhender avant cette mise en place.	See comment 714
718.	CRO Forum	Question 4	Providing details on the policy contents creates a risk of duplication with	See comment 714

	and CFO Forum		other policies required for example in Article 44. See our general comments on policies.	
719.	DIMA (Dublin International Insurance & Management)	Question 5	<p>The principle of proportionality directly relates to significance, therefore it should be implemented with respect to deviations from the standard formula and a quantitative assessment should not be required where it is not material.</p> <p>The response to analysing deviations has to be proportionate and a qualitative explanation should be key.</p>	Agree; the preparatory Guidelines allow for such approach.
720.	Groupe Consultatif Actuariel Européen	Question 5	<p>To assess respectively evaluate a deviation, expert judgement and qualitative approaches as e.g. the prudent person principle can and need to be taken into account. Material deviations may require a quantitative assessment.</p> <p>A quantitative assessment for all deviations from the standard formula regardless of their significance would be impractical and of little value for those risks which have no material impact on the risk profile. This would also be contrary to the principle of proportionality.</p>	<p>Partially agree; but the PPP applies to the investment side only.</p> <p>See comment 719</p>
721.	Insurance Europe	Question 5	The response to analysing deviations has to be proportionate and a qualitative explanation should be key.	See comment 719
722.	Munich Re	Question 5	Qualitative approaches to evaluate a deviation should also be taken into account.	See comment 719
723.	ROAM- Réunion des Organismes d'assurance mutuelle	Question 5	Demander une évaluation quantitative pour tous les écarts par rapport à la formule standard, indépendamment de leur importance est très clairement prématuré. Il n'est pas évident qu'une évaluation soit même toujours possible, car nécessite de pouvoir effectuer un modélisation propre de chacun des risques de la formule standard, afin de quantifier les écarts.	See comment 719
724.	DIMA (Dublin International Insurance & Management)	Question 6	<p>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.</p> <p>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.</p>	<p>Overall solvency needs: IM users can use the IM</p> <p>Continuous compliance with regulatory capital needs: IM users may use the IM but has to</p>

				<p>explain what the effect on capital requirements would be if the undertaking were not to receive approval of the IM (contingency plan)</p> <p>Deviations from SF: IM users should not be required to do this assessment. Basically the pre-application process has to deal with the issues; cross references can be made where appropriate.</p>
725.	Groupe Consultatif Actuariel Européen	Question 6	Yes, should be allowed as not allow internal models would defeat the purpose of the preparatory phase as it would create a misleading picture of the future solvency position of undertakings	See comment 724
726.	Insurance Europe	Question 6	Many undertakings 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.	See comment 724
727.	ROAM- Réunion des Organismes d'assurance mutuelle	Question 6	Cela semble être l'aboutissement de l'utilisation d'un modèle interne, qui peut sembler prématuré dans le cadre d'un processus de pré-validation.	See comment 724
728.	CRO Forum and CFO Forum	Question 6	Using an internal model in the ORSA for firms in pre application process is very important to foster the use and embedding of Internal Models. Not allowing use of Internal models would impact firms in pre application process ability to progress on the Use Test.	See comment 724
729.	CNA Insurance	2.41	CICL agrees that an assessment of overall solvency needs can be performed irrespective of the regulatory capital regime in place, thus giving national competent authorities the insight they seek into an	Agree

			undertaking's overall risk profile.	
730.	CNA Insurance	2.42	CICL agrees this would increase costs ,“for the moment”, but further recognizes that needing to assess compliance with certain quantitative Solvency II requirements results in an undertaking being subject to dual regulatory requirements, thus causing it to incur additional costs that would not exist should there be a single operative date from which the Solvency II requirements would apply. In addition, we recognize that not all quantitative requirements are fully resolved which creates the potential for much greater costs being incurred if the final requirements differ from what an undertaking proceeds with implementing under the Interim Measures.	Those assessment more dependant on pillar I will only be required once OMD II is finale. The Guidelines should help to prepare for Solvency II and not Solvency I. EIOPA will provide technical specifications for those assessments.
731.	Deloitte Touche Tohmatsu	2.41	Question: What should be understood by “the regulatory capital regime in place”? If performing assessment of the continuous compliance with regulatory capital requirements was necessary, it would be convenient to release a common regime for the preparatory phase	“Regulatory capital regime in place” means the regulatory regime the undertaking is subject to on national basis.
732.	Groupe Consultatif Actuariel Européen	2.42	The calculations required for assessing compliance with future SII regulatory capital requirements are very complex and should not be underestimated. This is one of the reasons we propose a phased approach	See comment 730
733.	MetLife	2.42	We welcome the recognition that having to perform Solvency II assessments whilst Solvency I remains in force increases implementation costs. We believe that this has not been sufficiently considered in the impact assessment and that the requirements are excessive as they currently stand.	See comment 730
734.	AMICE	2.43	We strongly disagree with EIOPA on the statement that the assessment of the continuous compliance with the capital requirements would still be useful even if Pillar I were not available. This request will put a heavy burden on undertakings as they will be asked to put in place procedures and document policies which may be subject to changes in the future. This would lead to an increase in the already huge implementation costs of Solvency II.	See comment 730

735.	CNA Insurance	2.43	While we appreciate that the assessment of continuous compliance would help identify potential difficulties for undertakings to meet future Solvency II requirements, any benefit gained in this area would potentially be lost should these quantitative requirements change. We also agree that such an approach would help ensure that an undertaking is ready to comply with the quantitative requirements on day one; however, until those quantitative requirements are finalized, such a goal is unattainable. These benefits are also underscored by the costs associated with having to comply with dual regulatory regimes for a minimum two year period.	See comment 730
736.	Deloitte Touche Tohmatsu	2.42	Comment: We understand that the situation of the undertakings around Europe is very different in the use of economic capital projections models. We propose a preparatory phase, increasing the requirements each year. For example: <input type="checkbox"/> During the first phase, compliance with article 45.1.a <input type="checkbox"/> During the second phase, compliance with article 45.1.a , 45.1.b and 45.1.c	See comment 730
737.	Groupe Consultatif Actuariel Européen	2.43	The solvency position of companies based on a Solvency II basis, (using estimated Pillar 1 requirements) should be evident from QIS submissions such as the recent LTGA exercise. Therefore, except for those companies who have not yet performed and submitted to their NCA a QIS calculation we do not consider this regulatory compliance assessment essential as part of the ORSA/FLA	See comment 730
738.	MetLife	2.43	We agree that undertakings have to prepare to meet the quantitative requirements of Solvency II and early identification of issues is beneficial. However we do not agree that this means that undertakings should be required to project capital requirements on a Solvency II basis in the formal forward looking assessment. Undertakings can still develop and test their systems, assess draft Solvency II results and identify issues without this. Including this in the formal assessment would create excessive	See comment 730 If the undertaking decides to choose a different valuation basis it is free to do so.

			additional work in terms of explaining and reconciling the results on various different bases etc.	
739.	CNA Insurance	2.44	Please refer to comments on paragraphs 2.41, 2.42, and 2.43 above.	See comment 730 and new wording
740.	Deloitte Touche Tohmatsu	2.43	<p>Comment:</p> <p>“The assessment of the continuous compliance on the other hand would render more reliable information about potential difficulties for undertakings to meet the future Solvency II quantitative requirements if it could be based on finalised Solvency II technical specifications but would still be useful even if those were not available”</p> <p>Agree that using existing regime rules would still be useful for continuous compliance with capital requirements. Does this continuous compliance with the rules apply for calculating technical provisions as well? If so please also consider our questions in section III, 1.43.</p>	Noted; see comment 730 and new wording
741.	Groupe Consultatif Actuariel Européen	2.44	Asking undertakings to embed a BAU Pillar 1 process two years before the current, expected, provisional date of full SII implementation, at a time when even this date is not final, and when Pillar 1 requirements are not final either, is arguably unnecessary and puts undue strain on resources. The complexity of the calculations involved should not be underestimated	Agree, see comment 730 and new wording
742.	MetLife	2.44	<p>We agree that undertakings have to prepare to meet the quantitative requirements of Solvency II and early identification of issues is beneficial.</p> <p>However we do not agree that this means that undertakings should be required to project capital requirements on a Solvency II basis in the formal forward looking assessment. Undertakings can still develop and test their systems, assess draft Solvency II results and identify issues without this. Including this in the formal assessment would create excessive</p>	See comment 730 and new wording; the assessment can be done on a best effort basis

			additional work in terms of explaining and reconciling the results on various different bases etc.	
743.	CNA Insurance	2.45	CICL agrees that a clear and transparent dialogue with national competent authorities is critical to ensuring appropriate preparedness for Solvency II and believes such a dialogue could and should exist whether an undertaking is subjected to the continuous compliance requirements or not.	Agree
744.	Deloitte Touche Tohmatsu	2.44	<p>Suggestion: The following statement, reported here below, seems to assign priority to the objective the FLA is aiming to. We suggest to clearly state it by for instance adopting a gradual phase-in as stated in the comment 2.42</p> <p>“from a supervisory point of view good preparation is to be considered more important for the assessment of the continuous compliance with requirements than for the assessment of the significant deviation from the assumptions underlying the Solvency Capital Requirement calculation”</p> <p>Comment: Agree with the general comment, moreover it would be useful for the NCA to understand the progress firms have made in making their decisions over whether the valuation principles and calculation methodologies will differ from the SCR even if they haven’t calculated this yet. If firms are yet to finalise their calculation designs then they may be at risk of achieving practical implementation in time for go live. The NCA may find it useful to understand who these “at risk” firms are now so they can provide guidance and support.</p>	Disagree; special assessment are not given priority over others; see new wording
745.	CNA Insurance	2.47	CICL agrees that providing a template for a structured report has the potential to compromise and influence the manner in which an undertaking performs its own forward looking assessment, which should be an undertaking specific assessment.	Noted
746.	Deloitte	2.46	Comment:	Noted

	Touche Tohmatsu		It is understandable that Level 3 guidelines should not be in contradiction with Level 2 requirements.	
747.	MSV Life	2.47	Though we appreciate the various pros and cons presented in respect of the provision by EIOPA of a template for a structured report we believe that ultimately ORSA reports will converge to a common market practice / standard. In this context, we feel that having a non binding template would expedite the process of convergence and reduce the number of post-implementation changes required and help keep down the level of costs incurred.	Disagree by national experience made in some Member States where a ORSA requirements have been already implemented on national basis
748.	CNA Insurance	2.48	CICL agrees with the rationale cited for not providing an example of a structured report.	Noted
749.	Deloitte Touche Tohmatsu	2.48	Comment: On one hand side it is a good goal that each undertaking develops its own level of detail. Supervisory may still require more information and thus more details. It is even important for medium and small companies that did not do a process similar to ORSA and will be vulnerable to arguments imposed by the supervision. Clarification on how EIOPO suggests to deal with differences in detail would be appreciated.	Noted; Guidelines will be drafted on the supervisory review process
750.	CNA Insurance	2.50	CICL supports this conclusion.	Noted
751.	MetLife	2.50	We agree that undertakings should be able to structure the report as appropriate to them.	Noted
752.	Deloitte Touche Tohmatsu	2.50	Comment: A strict structure template might not be required but an example report would be useful. Undertakings believe that they are still in the learning process of the new requirements, and of ORSA requirements and want to have some guidelines regarding the documentation and reporting. Typo "want they want"	See comment 747 Agree; see new wording
753.	Deloitte Touche Tohmatsu	2.53	Suggestion: In order to ensure a consistent approach across countries and college of supervisors, we think it would be beneficial EIOPA to provide a Guideline	Legally disagree; it is the home supervisor and the college of

			that NCAs should have to follow in case of request of a single FLA document by a Group.	supervisors who decide if a single supervisory report can be submitted; see Guideline 20 and especially Article 246 (4)
754.	Deloitte Touche Tohmatsu	2.54	Comment: We understand that a group as the possibility for applying for a single document. We would like to ask clarification if the wording „any subsidiary” should be interpreted as all-inclusive (all the subsidiaries are mandatory) or could be interpreted as „some of the subsidiaries” creating the possibility, where reasonable (please see comment 1.48) of including only a sub-group of entities in the single FLA document and having individual FLA document for the other entities.	See new wording
755.	Deloitte Touche Tohmatsu	2.56	Comment: Typo “constraint”	Agree; see new wording
756.	Deloitte Touche Tohmatsu	2.61	Comment: Where organisations have the ability to define for themselves what is meant by AMSB then this could end up being approved by a body that is several levels below the Board. Clearer guidance is required on how AMSB should be interpreted and what level of delegation is allowed in requirements that apply to the AMSB (e.g. is it sufficient that the Board approves a Policy based solely on a recommendation by a lower governance body without actually reading it for themselves?). (please see also comment 1.31)	Please see preparatory Guidelines on system of Governance and its Feedback Statement
757.	CNA Insurance	2.63	While CICL believes a single operative date from which Solvency II will apply is the optimal solution, it finds having to provide such a policy is less onerous than being expected to early implement certain other Solvency II quantitative requirements. That being said, there is a cost associated with the development of the policy that will be exacerbated if this task must be completed while an undertaking is subject to dual regulatory requirements	The preparatory Guidelines apply from 1 January 2014. EIOPA strongly believes that the policy can be prepared for during the

			in the form of existing regulatory requirements and the Interim Measures.	interim phase.
758.	CNA Insurance	2.64	CICL agree that such a policy has the potential to improve the quality of an undertaking's forward looking assessment, but note that the benefits obtained from having to provide this policy well ahead of full Solvency II implementation should be weighed against the costs as discussed above in paragraph 2.63.	See 7 comment 57
759.	Deloitte Touche Tohmatsu	2.65	Comment: The wording is unnecessarily difficult to interpret and could be clarified further. We understand that EIOPA expects each undertaking to develop its own policy in the preparatory phase.	Agree; see new wording
760.	MetLife	2.66	We agree that an initial qualitative assessment of this should be acceptable. We do not agree that this requirement should be included in the formal forward looking assessment prior to implementation of Solvency II. Firstly, there is still considerable uncertainty with regards to the final form of the Solvency II technical provisions and capital requirements. This makes it very difficult, if not impossible, to assess the deviation of the risk profile from the (unfinalised) assumptions underlying the SCR. We propose that companies should not be required to include the Solvency II basis in their formal forward looking assessment for these reasons ; while at the same time being required to demonstrate to NCAs that they will have the capability to do so once Solvency II is implemented.	Those assessment more dependant on pillar I will only be required once OMD II is finale. The Guidelines should help to prepare for Solvency II and not Solvency I. EIOPA will provide technical specifications for those assessments.
761.	CNA Insurance	2.67	While CICL continues to advocate a single operative date for which Solvency II will be effective, if an assessment of deviations from the standard formula are to be required, we agree that only those deviations deemed to be significant via an initial qualitative analysis need be quantified. Evaluating the significance of and potentially quantifying any deviations from the standard formula adds another layer of complexity to undertakings that are already complying with existing regulatory requirements, as well as the Interim Measures. In addition, CICL cautions	Noted; see comment 760

			against requiring an undertaking to develop processes and procedures to comply with a capital requirement calculation that has not yet been finalized as the potential exists for the requirements as known today to change.	
762.	Insurance and Reinsurance Stakeholder Group (IRSG)	2.66	These paragraphs should not be applicable for undertakings which are in the internal model pre-application process as the assessment of the deviations from the standard formula is part of this process and especially the application process itself.	Disagree; but new assessments are not being requested; cross-references to the pre-application process can be made.
763.	CNA Insurance	2.68	CICL agrees with the difficulties listed as it relates to the quantification of deviations and believes that the costs incurred from having to quantify certain deviations will outweigh any potential benefits.	Noted
764.	Insurance and Reinsurance Stakeholder Group (IRSG)	2.67	See 2.66	See comment 762
765.	CNA Insurance	2.69	Please refer to comments above for paragraph 2.67.	See comment 761
766.	Deloitte Touche Tohmatsu	2.68	<p>Comment: The statement here below seems to clarify that during the preparatory phase, the undertaking has freedom in evaluating their OSN (could be on existing regime basis, on internal SII basis, etc...). We refer to our comments in Section III.</p> <p>„EIOPA is aware of that quantification can be rather burdensome, especially if the undertaking during the preparatory phase has made use of the freedom to not apply Solvency II principles to the overall solvency assessment in which case switching to Solvency II is necessary before quantification.”</p>	See new wording
767.	Insurance and Reinsurance Stakeholder	2.68	See 2.66	See new wording

	Group (IRSG)			
768.	Insurance and Reinsurance Stakeholder Group (IRSG)	2.69	See 2.66	See comment 762
769.	CNA Insurance	2.71	CICL believes being required to complete the assessment using an internal model (for those going through the pre-application process), as well as under the assumption that the model will ultimately not be approved is unduly burdensome. Such a requirement adds even more cost and burden to an undertaking already operating under the constraints of existing regulatory requirements as well as the Interim Measures using an internal model approach, thus effectively resulting in the need to comply with three separate sets of regulatory requirements.	EIOPA expects undertakings, if using the internal model under pre-application for the assessment of the continuous compliance with regulatory capital requirements, to be able to demonstrate that they are preparing for the eventuality as explained in Guideline 1 of Pre-application Guidelines. Cross references between assessments for the internal model approval and FLAOR can be made in order to avoid double bordering.
770.	FEE	2.71	The requirement that internal model companies perform the “forward-looking assessment of the undertaking’s own risks” using both their internal model and a standard formula approach is cumbersome, and will lead to significantly more work for these companies.	See comment 769
771.	Insurance and Reinsurance Stakeholder Group (IRSG)	2.70	See 2.66	See comment 762

772.	MetLife	2.71	We agree that undertaking should be allowed to use an internal model as the basis of their forward looking assessment, if appropriate to them.	Noted
773.	CNA Insurance	2.72	Please see comments related to Guideline 14 (paragraph 1.42) and paragraph 2.71 above.	See comment 769 and new wording
774.	Deloitte Touche Tohmatsu	2.71	<p>Comment: Based on Guideline 11 (point 1.37) we understand that undertakings are allowed to use different valuation and recognition bases for their assessment of their overall solvency needs then defined by Solvency II if they are able to explain why this basis is more appropriate. From this we understand that this allows not only the usage of the Solvency II standard formula, the Solvency II internal model in the pre-application phase but also different approaches not defined by Solvency II. What is therefore the meaning of this section (points 2.71 to 2.73)? Does it relate only to the question of whether the undertaking needs to estimate the impact of the different basis (Guideline 11, point 1.38)?</p> <p>We find it possible that an undertaking will want to use a different approach then their Solvency II SCR for the forward looking assessment, not because it doesn't trust its internal model but because the undertaking has more freedom in choosing the approach which best fits its risks for the forward looking assessment then when preparing an internal model.</p> <p>Suggestion: More explanation on this issue would be welcome.</p>	<p>This section is not about valuation basis, but whether the use of the internal model should be allowed for the assessment of the continuous compliance with regulatory capital needs for undertakings in the pre-application process. The Standard formula is not the same as valuation basis.</p> <p>See comment 769</p>
775.	Insurance and Reinsurance Stakeholder Group (IRSG)	2.71	The use of the standard formula and the respective results should not be a common part of the ORSA for undertakings in the pre-application process for an internal model, neither for the preparatory phase nor for future ORSA guidelines. Especially the resources for this additional effort should be better used in the pre-application process of Internal models (also compare the respective interim measure on pre-application) in order to best prepare for Solvency II which is the aim of the preparatory phase. However, we agree that undertakings cannot rely on their internal model	See comment 769

			being approved so that the standard formula has to be seen as the fallback solution (also part of interim measure on pre-application). Nevertheless, the analysis of the difference between Internal Model and Standard Formula results is part of the internal model application anyway.	
776.	Investment & Life Assurance Group Limited (ILAG)	2.72	We are concerned that the requirement to calculate capital requirements using the internal model and standard formula will incur an additional layer of cost.	See comment 769 and new wording
777.	Deloitte Touche Tohmatsu	2.72	<p>Comment:</p> <p>Firms are at different stages of development of their internal model, and some are in advanced dialogue with their national regulators. The requirement to produce a forward looking assessment on both an internal model and standard formula basis for firms (within the threshold) applying for internal model approval is potentially onerous, and does not give credit to those firms that are best prepared for Solvency II in terms of their internal model. It is noted that use of internal model vs standard formula SCR also impacts technical provisions via the risk margin, own funds eligible to meet SCR etc and needing to project such variables into the future (to comply with Guideline 13) on both internal model and standard formula basis is potentially onerous if a robust quantitative assessment is required on both bases.</p> <p>Please also refer to 1.28 and 1.44. More explanation on this issue would be welcome.</p>	See comment 769 and new wording
778.	Insurance and Reinsurance Stakeholder Group (IRSG)	2.72	See 2.71	See comment 769 and new wording
779.	AMICE	2.74	We fully support EIOPA's conclusion that the ORSA assessment should not be required from all undertakings but should be limited to undertakings subject to the submission of information. This reinforces our argument that the first ORSA report should be linked to the first submission of information to the supervisory authorities.	Partially agree; all undertakings should put FLAOR in place and assess their overall solvency needs from 2014 on

780.	Insurance and Reinsurance Stakeholder Group (IRSG)	2.73	See 2.71	See comment 769
781.	Deloitte Touche Tohmatsu	2.74	Comment: Typo "weighting"	Agree, see new wording
782.	CNA Insurance	2.76	CICL agrees there are benefits to having a common understanding of the forward looking assessment of an undertaking's own risks; however, we believe this understanding can be obtained without requiring certain aspects of Solvency II to be effective well ahead of its full implementation date.	Noted
783.	AMICE	2.77	We agree that the obligation to draft an ORSA policy would help firms in their adaptation to the solvency II process. However, proportionality should apply.	Agree, see new wording
784.	AMICE	2.78	We fully agree with EIOPA that firms should have the flexibility to decide what they find to be the important information to be submitted to supervisors.	Noted
785.	Deloitte Touche Tohmatsu	2.77	Comment: It does not become clear how the FLA policy relates to the risk management policy. Question: How should these documents be connected? Can the FLA policy be part of the risk management policy? Or should they be two separated policies?	Agree, see new wording
786.	CNA Insurance	2.79	Please refer to comments on paragraph 2.71	See comment 769
787.	Deloitte Touche Tohmatsu	2.78	Comment: We agree with the rationale of guaranteeing flexibility. However we think a set of minimum requirements for the contents could be useful.	Noted; the assessment of the overall solvency needs can be interpreted as a

			<p>Suggestion: In case the level 2 implementing measures would not be release on time, we suggest EIOPA to release information regarding minimum requirements.</p> <p>Question: Could Guideline 10 be understood as minimum requirements?</p>	<p>mimumum requirement; GL 10 applies regardless of the publication of Implementing Measures</p>
788.	CRO Forum and CFO Forum	2.79	<p>This is sensible, but is not reflected in Guideline 3. It is less onerous to „explain the effect if it turns out the undertaking has to use the standard formula as approval for the model is refused” than what guideline 3 says „the undertaking concerned also performs the assessment....”</p> <p>The final sentence of this paragraph (beginning “Guideline 24 states ...” appears to be inconsistent with paragraph 1.28 (relating to Guideline 3) suggesting that the decision on Question 6 has not been properly/accurately reflected in the preparatory Guidelines on thresholds.</p>	<p>Noted</p> <p>Disagree; the threshold applies for the assessment of continuous compliance with capital requirements</p>
789.	Deloitte Touche Tohmatsu	2.79	<p>Comment: See 2.72 above.</p>	<p>See comment 769</p>
790.	CNA Insurance	2.81	<p>Please refer to comments on paragraph 2.67.</p>	<p>Noted; see 760</p>
791.	Deloitte Touche Tohmatsu	2.81	<p>Question: What can a qualitative assessment look like? Should it be based on data, calibration and methodology? It could be a challenge to describe the resulting differences between a stochastic and a deterministic / factor-based approach.</p>	<p>The undertaking should apply appropriate methodologies and models in its assessment of own risks.</p>
792.	CNA Insurance	2.83	<p>While CIOL does not disagree that the additional costs for undertakings would be of a much minor scale compared to those required for full Solvency II implementation, the fact that undertakings will still be required to meet existing regulatory requirements while also complying with the</p>	<p>Disagree; the preparatory Guidelines are based on the Solvency II Directive</p>

			proposed interim measures cannot be overlooked. The cost and complexity of operating under what we view to be dual regulatory regimes is significant.	and the costs related to these Guidelines are seen not as extra cost but as normal implementation costs for Solvency II
793.	Investment & Life Assurance Group Limited (ILAG)	2.83	The costs will not be minor.	Noted
794.	MetLife	2.83	<p>Our key comment is that this impact assessment does not place sufficient weight on the additional work created in the forward looking assessment where an existing regulatory regime already applies. 1.9 and 1.10 together imply the need to project and stress test capital requirements on a number of different bases and then reconcile the results. We believe that this would place an excessive burden on undertakings prior to Solvency II implementation, particularly undertakings with multiple business lines and / or undertakings with entities located in multiple jurisdictions.</p> <p>We propose instead that in its forward looking risk assessment, each undertaking should project and stress test capital requirements on one basis only. We propose that during the interim period, each undertaking should project and stress test capital requirements on a Solvency I basis until such time as Omnibus II has been agreed. Each undertaking will be required to consistently meet local Solvency I capital requirements until such time as Solvency II is in effect. This proposal is consistent with ORSA guideline 4 on Proportionality, Guideline 11 on Valuation and recognition of the overall solvency needs and Guideline 7 c) (iii) – all of which emphasize that the forward looking assessment should be the undertaking’s own and the approach justified in the context of its own risk profile and capital position.</p> <p>This does not stop NCAs from assessing plans to ensure that the undertaking will ultimately be able to use its projection system to project</p>	<p>Disagree; for those assessments related to pillar I capital requirements EIOPA will provide technical specifications; proportionality applies and therefore FLAOR should reflect the nature and complexity of the undertaking, its risks and its business</p> <p>Partially agree; the assessments which are linked to pillar I and OMD II are now linked to the timing of reporting, meaning that the first assessments on those issues will be requested during FLAOR 2015</p>

			and stress test capital requirements on a Solvency II basis. This assessment could be done in parallel with discussions on the ORSA supervisory report, while at the same time avoiding placing an excessive burden on undertakings by requiring results on multiple bases to be produced for the report itself, and prior to the final SCR details being agreed upon resolution of Omnibus II.	FLAOR should enable undertakings to have a Forward looking assessment, meaning to prepare for Solvency II and not for Solvency I
795.	CNA Insurance	2.84	While CIICL does not disagree with some of the perceived benefits listed, we question whether these benefits are significant enough to justify the burden to undertakings in needing to comply with the Interim Measures. We further note that many of these benefits could be achieved without requiring what we view to be early implementation of Solvency II, particularly as it relates to the quantitative requirements.	See comment 792
796.	Deloitte Touche Tohmatsu	2.87	Comment: Typo "inside"	Agree; see new wording
797.	Investment & Life Assurance Group Limited (ILAG)	2.89	We do not agree there will be no direct costs to policyholders. For mutual insurers and those where policyholders receive a proportion of the surplus all, or most, of the cost will be directly attributable to policyholders. Nor do we believe that these proposals will result in a significant improvement of policyholder protection.	Disagree; see comment 792