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GUIDELINES

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Guidelines on the criteria to determine whether simplified obligations can apply for certain insurance and reinsurance undertakings and groups

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GUIDELINES ON THE CRITERIA TO DETERMINE WHETHER SIMPLIFIED OBLIGATIONS CAN APPLY FOR CERTAIN INSURANCE AND REINSURANCE UNDERTAKINGS AND GROUPS

INTRODUCTION

1. In accordance with Article 16 of Regulation (EU) No 1094/2010 (EIOPA Regulation)¹ and with Article 4(2) of Directive (EU) 2025/1², EIOPA issues these Guidelines to specify further details on the criteria listed in the introductory part of Article 4(1) of Directive (EU) 2025/1 for the purposes of determining whether simplified obligations can apply for certain insurance and reinsurance undertakings (hereafter: “undertakings”) and groups.
2. These Guidelines have been developed in line with EIOPA’s views for better regulation and supervision³, thereby enhancing supervisory convergence through simpler, more efficient frameworks.
3. The approach set-out in these Guidelines is intended to promote the convergence of practices among supervisory authorities and resolution authorities when assessing undertakings and groups against the assessment criteria while ensuring that this assessment is conducted in a proportionate manner.
4. These Guidelines are addressed to supervisory authorities and resolution authorities, in accordance with Article 4(2), point (i) of the EIOPA Regulation.
5. The Guidelines apply from 30 January 2027.
6. If not defined in these Guidelines, the terms have the meaning defined in the legal acts referred to in this introduction.

GUIDELINE 1 – GENERAL PRINCIPLES REGARDING THE ASSESSMENT OF THE APPLICATION OF SIMPLIFIED OBLIGATIONS

7. These guidelines further specify the assessment criteria by setting a list of elements against which undertakings and groups should be assessed by supervisory authorities and resolution authorities when determining whether it is appropriate to apply simplified obligations to any of these undertakings and groups. For the purpose of this assessment, certain elements of the criteria may be of differing significance depending on the specific conditions of the undertaking or group.

¹ Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48–83)

² Directive (EU) 2025/1 of the European Parliament and of the Council of 27 November 2024 establishing a framework for the recovery and resolution of insurance and reinsurance undertakings and amending Directives 2002/47/EC, 2004/25/EC, 2007/36/EC, 2014/59/EU and (EU) 2017/1132 and Regulations (EU) No 1094/2010, (EU) No 648/2012, (EU) No 806/2014 and (EU) 2017/1129 (OJ L, 2025/1, 8.1.2025).

³ Bolder, Simpler, Faster: EIOPA’s views for better regulation and supervision, (EIOPA-BoS-25/118), 8 April 2025.

8. Based on the assessment criteria specified in these guidelines, supervisory authorities and resolution authorities should assess whether a failure of an undertaking and its subsequent winding-up under normal insolvency proceedings would have a significant negative effect on financial markets, on other undertakings, on policyholders, on funding conditions, or on the wider economy.
9. The assessment should take place only for those undertakings and groups that are subject to pre-emptive recovery planning or resolution planning, in accordance with Article 5, 7, 9 and 10 of Directive (EU) 2025/1.
10. In order to apply simplified obligations to certain undertakings and groups, supervisory and resolution authorities should assess all the assessment criteria. However, if for one of the criteria it is evident that a failure and subsequent winding up would have a significant negative effect on financial markets, on other undertakings, on policyholders, on funding conditions, or on the wider economy, full obligations should be applied and no further assessment should necessarily be performed against the other criteria.
11. Simplified obligations are less likely to be applicable to undertakings and groups in the following categories:
 - with significant cross-border activities as defined in Article 152aa(1) of Directive 2009/138/EC (Solvency II)⁴; or
 - whose failure would have a significant impact on its policyholders and beneficiaries and on the market in accordance with Guideline 15 and 16 of the EIOPA Guidelines on supervisory review process (EIOPA-BoS-14/179).
12. Supervisory authorities and resolution authorities should ensure that they are kept informed of changes to an undertaking's or group's business or structure relevant to the assessment criteria in order to ensure that the application of full or simplified obligations remains appropriate. The granted simplified obligations should not continue to apply when the basis for their application is no longer met.
13. Supervisory authorities and resolution authorities should also have particular regard to undertakings and groups that are in scope of the pre-emptive recovery or resolution planning requirements but are foreseen to be wound-up under normal insolvency proceedings, as their eligibility for the application of simplified obligations is expected to be more likely. However, the determination that an undertaking or group is eligible for simplified obligations does not preclude an assessment that the conditions for resolution are satisfied pursuant to Article 19 of Directive (EU) 2025/1 and that a resolution tool may be applied having regard to the resolution objectives in Article 18 of Directive (EU) 2025/1.
14. The criteria and elements developed in these Guidelines are to be used in the assessment of the eligibility of simplified obligations for the pre-emptive recovery planning and resolution planning requirements of both individual undertakings and groups. Supervisory authorities and

⁴ 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) (OJ L 335, 17.12.2009, p. 1-155).

resolution authorities may choose to categorise undertakings and groups for the purposes of assessing their eligibility for simplified obligations using the elements under the assessment criteria. Additionally, the outcomes of the assessment of the potential impact of failure, in accordance with the EIOPA Guidelines on supervisory review process (EIOPA-BoS-14/179), and the assessment for determining the market share in accordance with Article 5(2) of Directive (EU) 2025/1 could serve as input for the categorisation of assessment criteria.

15. Given that some criteria and in particular certain elements listed in these Guidelines, coincide with those that are to be assessed under the Commission Delegated Regulation (EU) No [to be updated], on criteria for pre-emptive recovery planning requirements and methods to be used when determining the market shares, these criteria/elements may be approached from the same perspective, thereby allowing the same set of information to be used to satisfy both requirements. In a similar manner, supervisory and resolution authorities can perform both assessments in the same process.

GUIDELINE 2 – NATURE OF BUSINESS

16. When assessing the nature of business criterion, supervisory authorities and resolution authorities should consider at least the following elements:
 - a. the extent to which the undertaking provides critical functions in one or more Member States;
 - b. factors by which it generates profit and losses, including its profitability ratios;
 - c. lines of business in which it operates, taking into account both the relative contribution of each line of business to the undertaking's or group's total gross written premiums or to the total technical provisions and their riskiness;
 - d. types of products it offers;
 - e. investment strategy followed by the undertaking or group;
 - f. distribution model and distribution channels and their diversification;
 - g. stability of business model, considering also the degree of diversification across lines of business.
17. Based on the assessment of these elements, supervisory authorities and resolution authorities should consider less likely to be subject to simplified obligations undertakings or groups that show:
 - a. a concentration in fewer lines of business or products, especially the ones that are deemed to be riskier;
 - b. a high impact from the discontinuation of their insurance coverage;
 - c. undiversified investment strategies and distribution model or channels;
 - d. an overall instability of the business model, including a low degree of business diversification.

GUIDELINE 3 – SHAREHOLDING STRUCTURE

18. When assessing the shareholding structure criterion, supervisory authorities and resolution authorities should consider at least the following elements:
 - a. whether there is adequate transparency of the identities of the shareholders, direct or indirect, natural or legal persons;

- b. whether shareholders are concentrated or dispersed, in particular taking account of the profile of shareholders with qualified holdings as defined in Art. 13(21) of Directive 2009/138/EC (Solvency II);
 - c. the extent to which the shareholding structure may impact, for example, the availability of certain remedial actions for the undertaking or group.
19. Based on the assessment, supervisory authorities and resolution authorities should consider less likely to be subject to simplified obligations undertakings or groups that have a non-transparent, complex, shareholders profile or shareholding structure.

GUIDELINE 4 – LEGAL FORM

20. When assessing the legal form criterion, supervisory authorities and resolution authorities should consider at least the following elements:
- a. the structure of an undertaking in terms of whether the undertaking is part of a group and, if so, whether the group has a complicated or simple structure and the degree to which entities are interconnected, having regard to financial and operational interdependencies;
 - b. the legal form of the undertaking including mutual undertakings and cooperative society, in accordance with the legal forms of undertakings set out in the Annex III of Directive 2009/138/EC (Solvency II)⁵.
21. Based on the assessment, supervisory authorities and resolution authorities should consider less likely to be subject to simplified obligations undertakings that are part of a complicated group structure and the entities within the group are highly interconnected.

GUIDELINE 5 – RISK PROFILE

22. When assessing the risk profile criterion, supervisory authorities and resolution authorities should consider the gross and, as appropriate, net risk exposures of an undertaking or a group and at least the following elements:
- a. the solvency ratio of the undertaking,
 - b. the quality of the own funds and the percentage that they represent over the total Solvency Capital Requirement;
 - c. whether risk exposures, measured by Solvency Capital Requirement modules or submodules, pose higher risk for the undertaking in comparison to other undertakings on the market;
 - d. the undertaking's risk appetite considering it, where relevant, in the context of the solvency and financial condition;
 - e. the liquidity risk.

⁵ 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), (OJ L 335, 17.12.2009, p. 1).

23. Based on the assessment, supervisory authorities and resolution authorities should consider as being less likely to be subject to simplified obligations those undertakings or groups with a low solvency ratio, low quality of own funds, high risk exposure compared to other undertakings or groups, have a high risk appetite, or high liquidity risk.

GUIDELINE 6 – SIZE

24. When assessing the size criterion, supervisory authorities and resolution authorities should use the amount of:
- a. gross technical provisions for life undertakings;
 - b. gross written premiums for non-life undertakings.

Where relevant, the assessment of size may be supplemented by the amount of total assets.

25. Based on the size assessment, supervisory authorities and resolution authorities should consider larger undertakings or groups as being less likely to be subject to simplified obligations and smaller undertakings or groups as being more likely to be subject to simplified obligations.

GUIDELINE 7 – LEGAL STATUS

26. When assessing the legal status criterion, supervisory authorities and resolution authorities should consider at least the following elements:
- a. the insurance classes, listed in Annexes I and II to the Solvency II, which the undertaking has been granted an authorisation for in accordance with Title I, Chapter II of Solvency II;
 - b. whether the undertaking pursues both life and non-life activities.
27. Based on the assessment, supervisory authorities and resolution authorities should consider as being less likely to be subject to simplified obligations those undertakings or groups which:
- a. have been granted an authorisation for a broad scope of insurance classes, in particular in terms of the types and their related complexity;
 - b. pursue both life and non-life activities.

GUIDELINE 8 – INTERCONNECTEDNESS TO OTHER REGULATED UNDERTAKINGS OR TO THE FINANCIAL SYSTEM IN GENERAL

28. When assessing the interconnectedness criterion, supervisory authorities and resolution authorities should consider at least the following elements:
- a. the extent to which the undertaking provides critical functions to other financial institutions in one or more Member States;
 - b. exposures to counterparties in the broader financial system and real economy;

- c. concentration of the financial instruments held and their corresponding volumes, considering, where relevant, derivative positions, repos and securities lending positions and collateral agreements;
 - d. contagion risks among entities within the group, considering also the volume of intra-group transactions, reinsurance and shareholder structure;
 - e. relevance of the undertaking's operational services for the group.
29. Based on the assessment, supervisory authorities and resolution authorities should consider less likely to be subject to simplified obligations those undertakings or groups that have a high exposure to many counterparties, a high concentration in terms of numbers in fewer financial instruments held or their high volume with respect to the total assets, a high contagion risk or high relevance of the operational services for the group.

GUIDELINE 9 – SCOPE AND COMPLEXITY OF ACTIVITIES

30. When assessing the scope and complexity of activities criterion, supervisory authorities and resolution authorities should consider at least the following elements:
- a. cross-border business;
 - b. role of third party providers;
 - c. risk transfer arrangements, including reinsurance strategy;
 - d. investments in complex financial instruments, such as structured assets;
 - e. group structure, including allocation of own funds and interdependencies;
 - f. total covered liabilities by insurance guarantee scheme or schemes (if existent in the given jurisdiction).
31. Based on the assessment, supervisory authorities and resolution authorities may consider less likely to be subject to simplified obligations those undertakings or groups when there is a high degree of cross-border business, there is a strong dependence on third party providers, risk transfer arrangements are used to a great extent, investments in complex financial products play an essential role, the group structure is complex or the total portion of liabilities covered by insurance guarantee schemes is low.

COMPLIANCE AND REPORTING RULES

32. This document contains Guidelines issued under Article 16 of the EIOPA Regulation. In accordance with Article 16(3) of the EIOPA Regulation, competent authorities are required to make every effort to comply with guidelines and recommendations.
33. Competent authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or supervisory framework in an appropriate manner.
34. Competent authorities are to confirm to EIOPA whether they comply or intend to comply with these Guidelines, with reasons for non-compliance, within two months after the issuance of the translated versions.
35. In the absence of a response by this deadline, competent authorities will be considered as non-compliant to the reporting and reported as such.

FINAL PROVISION ON REVIEW

36. These Guidelines will be subject to a review by EIOPA.