



Consultation paper on the Supervisory Statement on ORSA in the context of COVID-19

Responding to this paper

EIOPA welcomes comments on the Consultation paper on the Supervisory Statement on ORSA in the context of COVID-19. Comments are most helpful if they:

- a) contain a clear rationale; and
- b) describe any alternatives EIOPA should consider.

Please send your comments to EIOPA by 15 March 2021 at 23.59 hrs CET responding to the questions in the survey provided at the following link:

<https://ec.europa.eu/eusurvey/runner/ORSASTatementSurvey2020>

Contributions not provided using the survey or submitted after the deadline will not be processed and therefore considered as they were not submitted.

Publication of responses

Contributions received will be published on EIOPA's public website unless you request otherwise in the respective field in the template for comments. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.

Please note that EIOPA is subject to Regulation (EC) No 1049/2001 regarding public access to documents and EIOPA's rules on public access to documents.

Contributions will be made available at the end of the public consultation period.

Data protection

Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published. They will only be used to request clarifications if necessary on the information supplied. EIOPA will process any personal data in line with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. More information on data protection can be found at <https://www.eiopa.europa.eu/> under the heading '*Legal notice*'.

Consultation paper overview & next steps

EIOPA carries out this consultation in accordance with Article 29(2) of Regulation (EU) No 1094/2010. This Consultation Paper presents the Supervisory Statement on ORSA in the context of COVID-19. EIOPA will consider the feedback received,

develop Impact assessment and publish a Final Report on the consultation and submit the Supervisory Statement for adoption by its Board of Supervisors.

Introduction

1. The European Insurance and Occupational Pensions Authority (EIOPA) provides this Supervisory Statement on the basis of Article 29(2) of Regulation (EU) No 1094/2010 to promote common supervisory approaches and practices.
2. This Supervisory Statement is based on Directive 2009/138/EC (Solvency II) and addressed to the competent authorities, as defined in point (i) of Article 4(2) of Regulation (EU) No 1094/2010.
3. The COVID-19 pandemic has been affecting economies and societies leading to state and central banking measures being taken to combat its impact. This situation has resulted in a social and economic crisis, the effects of which are being felt throughout the world's and the EU's economy. The financial stress caused, the consequences of which are expected to extend much further in time, has underlined the need for insurance and reinsurance undertakings to assess the impact of the pandemic on their business from a forward looking perspective. The current pandemic is identified clearly as a new risk which needs to be assessed in the risk analysis of undertakings.
4. The Own Risk and Solvency Assessment (ORSA) was designed and considered as an important and effective tool for risk management. The performance of an ORSA under the current circumstances is to give insight into the potential impact of the COVID-19 pandemic on the undertaking's risk profile. In addition, it promotes the identification and effective management of the undertakings' risks to ensure they have sufficient capital to absorb possible losses and help steer their business through periods of adversity.
5. The aim of this Supervisory Statement is to promote convergence by guiding undertakings through common supervisory expectations on the ORSA in the current situation triggered by the COVID-19 pandemic, taking into account that the impact on each individual undertaking can differ depending on its specific risk profile.

ORSA as a management tool

6. Undertakings should consider the ORSA as one of the fundamental tools in risk management to assess the impact of the COVID-19 pandemic and take the ORSA outcomes into account in the decision making by their administrative, management or supervisory body (AMSB).
7. The ORSA process and outcomes are expected to be used by the AMSB in any strategic discussion in general and in particular where developments are expected to materially impact the undertaking. The ORSA outcomes can influence strategic decisions on changes for instance to underwriting and pricing practices, to risk mitigation techniques, to investments strategy, to capital management or on improvements of operational and cyber resilience.

Also, a review of the insurance contracts' terms and conditions including clarifications of coverage or exclusion clauses and further communication with policyholders might be needed.

Timing of the regular ORSA and/or ad-hoc ORSA

8. EIOPA acknowledges that the regular ORSA is being submitted on an annual basis with different timings across Europe. In accordance with Article 45 of Solvency II, EIOPA expects undertakings to plan their ORSA process in a manner that allows the ORSA outcomes to be embedded in the strategic planning and/or other strategic decisions. This planning should take into account any ad-hoc strategic planning and/or other strategic decisions being taken as a result of the pandemic situation. This will allow undertakings to define the necessary changes to the business model or risk profile.
9. Undertakings should assess and decide if an ad-hoc ORSA is needed based on the analysis of any material changes to the risk profile. Material changes to the undertaking's risk profile can be observed, for example, due to:
 - changes in the undertaking's market or credit risk exposure (including downgrade and/or default scenario);
 - material changes in underwriting results in lines of business which are more affected by the pandemic;
 - major amendments to business models, products offered, plans and strategies.
10. EIOPA believes that the current situation should trigger an ad-hoc/non-regular ORSA if the pandemic impacts materially the risk profile of the undertaking, in particular in those cases where the performance of the regular ORSA has not allowed the undertaking to assess and to take into account the impact of the COVID-19 pandemic.
11. If there is any indication of a material impact, leading to a significant change in the risk profile, undertakings should perform an ad-hoc /non-regular ORSA to be submitted to the Competent Authority earlier than the regular one if needed. In the course of the evaluation of the need to perform an ad-hoc ORSA, the undertakings might engage in a supervisory dialogue with the relevant Competent Authority.
12. If the undertaking has taken the decision to develop an ad-hoc ORSA, the undertaking should assess whether the full ORSA is necessary or if the process will focus only on specific areas of the risk profile and its impact, for example on the ongoing compliance with the Solvency Capital Requirement.

Scenarios used in the ORSA

13. One component of the ORSA process is the forward-looking stress tests (including reverse stressing) and scenario analysis, taking into account the principle of proportionality. The development of the ORSA, either ad-hoc or regular, reflecting the impact of the COVID-19 pandemic, should:
 - consider the conditions observed at a given moment and any expected stresses for example on capital markets, claims development for both non-life business (e.g. business interruption, travel, event cancellation, medical malpractice) and life-business (e.g. claims arising from higher mortality, sickness rates), and the impact on operational risks (e.g. digital resilience, business continuity);
 - include an assessment of the soundness of the business model from a forward-looking perspective.
14. As part of the assessment of the overall solvency needs (Article 45 (1)(a) of Solvency II) undertakings should consider the future impact of the pandemic, including potential litigation with regard to the coverage provided by insurance policies, the limited and comparable statistical data, the role of state support and other public backstops, the limitation of dividends distribution and other capital support in a group structure. Undertakings should use the latest available information from reliable sources in the different areas to be considered.
15. Given the unprecedented nature of the current pandemic, a number of major uncertainties remain that are decisive for the future. The degree of uncertainty should be assessed for all relevant aspects, including, but not limited to, the volume of premiums, the development of claims, liquidity aspects and investment income. The identification of the sources and levels of uncertainty considered should be documented.
16. Where the undertaking concludes, based on the analysis of its current risk exposure, that it is or could be materially exposed to risks revealed by the pandemic, this should be reflected in the decision of scenarios used and documented in the ORSA process. The undertaking should take into account the uncertainty in the duration and (macroeconomic) impact of the pandemic in its ORSA and, if relevant for its risk profile, consider multiple scenarios to capture this uncertainty in an appropriate manner. In this case the scenarios are expected to include several degrees of severity for the pandemic's impact on the undertaking's solvency and capital needs taking into account its individual situation.
17. The ORSA process includes an assessment of the undertaking's business exposures related to the risk coverages or guarantees of its insurance products. When performing this analysis, undertakings should include the assessment of possible policyholder actions such as lapses, cancellations,

claims and potential litigation over compensation disputes. In case the undertaking anticipates launching new products and/or stopping or substantially changing products, for example regarding their pricing or availability or application procedure, the ORSA should also contain the impact of this new or amended product portfolio on the overall solvency needs as well as on the regulatory solvency.

18. In order to ensure adequate risk management, undertakings should carry out scenario analysis covering the short and long term. They are expected to examine the effects of the COVID-19 pandemic on their solvency over a period that reflects the undertaking's risk exposure and to take into account second-order effects that may occur in the longer term. EIOPA expects an analysis over a three-year period as a minimum time horizon for the majority of the insurance undertakings.
19. As part of the assessment of the compliance with the capital requirements and with the requirements regarding technical provisions (Article 45(1)(b) of Solvency II) undertakings should reflect on and assess the scenarios and assumptions for calculating the technical provisions in order to assess the continuous compliance with the regulatory requirements in the short and long term.
20. Capital requirements and eligible own funds should be recalculated according to each stressed scenario and to the valuation of assets and technical provisions. If, at any point in time, the solvency ratio should come under pressure or fall below the lower solvency limits set by the undertaking, it is important to formulate risk mitigating measures and/or management actions that can improve the solvency position, while taking into consideration the possible limited availability of those measures and/or management actions under a stressed situation. Undertakings are recommended to assess whether their internally set solvency limits are adequate and sufficient taking into account the applied stresses of the COVID-19 pandemic. The analysis should reflect upon:
 - a) internal risk appetite;
 - b) quantitative or qualitative indicators/measures;
 - c) overall risk tolerance limits;
 - d) metrics used within the risk management system to measure risks;
 - e) stress test framework;
 - f) monitoring process.