

# **FEEDBACK STATEMENT FROM COMMENTS RECEIVED ON THE SUPERVISORY STATEMENT ON ORSA IN THE CONTEXT OF COVID-19**

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European Insurance and  
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## **Introduction**

EIOPA would like to thank all the participants of the public consultation for their comments on the draft Supervisory statement on ORSA in the context of Covid-19.

The input received provided important guidance for EIOPA to finalise the Supervisory statement. All of the comments submitted were given careful consideration by EIOPA. The individual comments received and EIOPA's response to them are published as a separate document.

## **Aim and rationale of the Supervisory statement**

The Supervisory statement aims to promote supervisory convergence focusing on the supervision of the internal processes of undertakings necessary for a good quality ORSA, and guiding undertakings through supervisory expectations under the current situation triggered by the COVID-19 pandemic. It also takes into account that the impact on each individual undertaking can differ depending on its specific risk profile.

The statement is addressed to the national supervisory authorities and addresses specifically the situation at the time of its publication, however the recommendations are applicable at any similar situation with the necessary adaptations.

The Supervisory statement does not add any new requirements or and aims at giving clear indication of supervisory expectation that are expected to facilitate the dialogue between national supervisory authorities and supervised undertakings. The performance of an ORSA under the current circumstances should give insight into the potential impact of the COVID-19 pandemic on the undertaking's risk profile to support the decision making by their administrative, management or supervisory body (AMSB). 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.

In this spirit the guidance included doesn't preclude the supervisory authorities from triggering a supervisory dialogue with undertakings at any time if it is deemed appropriate considering the risk-based approach.

## **Main comments received and how EIOPA addressed them**

### Legal hook

The majority of the stakeholders expressed doubts regarding the addressee of this supervisory statement due to the reference made also to insurance and reinsurance undertakings within the document.

EIOPA is underlining that the Supervisory Statement is based on Directive 2009/138/EC (Solvency II) and is addressed to the competent authorities with the aim to foster supervisory convergence in the area of the ORSA. Indeed, there are

a number of additional clarifications in the area of the performance of an ORSA under the current circumstances which the experience has shown to be needed (e.g. the ad-hoc/ non-regular ORSA in case of material impact on the business of the undertaking) and were clarified in this supervisory statement.

The document sets supervisory expectations which translate ultimately on undertakings. Therefore, as in other documents, and considering that the document is based on requirements imposed to undertakings in Solvency II Directive, the drafting chosen refers to undertakings.

It is EIOPAs duty to contribute to high quality common supervisory standards and practices in particular by providing statements on the basis of Article 29(2) of Regulation (EU) No 1094/2010.

### Scope

Some stakeholders argued that there is no need to link the statement specifically to the current situation caused by the outbreak of Covid-19. EIOPA has further highlighted that the Statement addresses specifically the situation at the time of its publication, however the recommendations are applicable at any similar situation with the necessary adaptations.

A number of stakeholders argued that there are paragraphs of the Statement which repeat the Solvency II Regulatory framework (e.g. par. 8, 10, 11, 12). EIOPA has taken note and deleted some of the above mentioned paragraphs (par. 10 and 11) considering the fact that after a year of Covid-19 pandemic any impact should have been already reflected in the annual ORSA of the undertakings. However, EIOPA considers important to include some references to the requirements under the Solvency II Regulation. The aim is to highlight the need to reflect the impact of Covid 19 pandemic in the process on time so the strategic decisions of the undertaking can be influenced by the results of the assessment.

Based on comments received from a number of respondents to the consultation paper it has been clarified in the paper that the statement is issued considering the application of the principle of proportionality in accordance with Solvency II.

Following number of comments raised by stakeholders with regards to the scenarios to be used in the ORSA a clarification has been added referring to the fact that all conditions and impacts are to be considered to the extent that they are relevant for the overall solvency needs taking into account the undertaking specific risk profile.

### ORSA as a management tool

Stakeholders argued that the review of contracts' terms and conditions is relevant only to the extent that ORSA identifies the risks associated with contract coverage. Respondents to the public consultation believe that this should apply in respect of both COVID-19 and non-COVID-19 impacts.

EIOPA has noted the comments raised and has taken the approach of adding further clarification at the end of paragraph 7 referring to the cases where risks are identified with contract coverage within the ORSA.

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

Number of stakeholders recognise the need to assess whether an ad-hoc ORSA is needed based on material changes in the risk profile, while others argue that any impact of Covid-9 or similar situation should/ could be included in the annual ORSA.

EIOPA is highlighting that this Supervisory Statement doesn't refer to ad-hoc/non-regular ORSA report in any case. Undertakings should be able to assess the impact of Covid-19 on their business and in case it is considered material, this should be a trigger for ad-hoc/non-regular ORSA. Furthermore EIOPA considers that after a year of Covid-19 pandemic any impact should have been already reflected in the annual ORSA of the undertakings.

#### Scenarios used in the ORSA

Respondents to the public consultation of the Supervisory statement commented that risks identified within the ORSA should be considered only to the extent that they are relevant for the overall solvency needs taking into account the undertaking specific risk profile, having regard to Article 45 of the Solvency II Directive. Similarly the assessment of the soundness of the business model should only be relevant in this context where Covid-19 jeopardises the business model and this has implications for the insurer's assessment of overall solvency needs.

In response to this comment EIOPA has introduced a foot note associated with the part of the Supervisory Statement dedicated to the scenarios used in the ORSA referring to the fact that all conditions and impacts are to be considered to the extent that they are relevant for the overall solvency needs taking into account the undertaking specific risk profile.

A number of stakeholders argued that the statement should not be prescriptive with regards the time horizon of the scenario analysis and recognise that it is important to leave undertakings the flexibility to employ different approaches to capturing potential short term and long term impacts to the extent that they reflect the long term risks faced and are appropriate for its risk profile. Beyond the short term, qualitative approaches may be appropriate and proportionate having regard to the risk profile of the undertaking and the range of uncertainties faced.

In this context EIOPA is expecting undertakings to ensure adequate risk management and foresee the impact of the Covid-19 pandemic or any similar situation in a short and long term depending on their business model and exposures.

Furthermore EIOPA has taken on board the number of comments received with regards to replacing compliance on 'a short and long term' with compliance on 'continuous basis'.

Number of respondents also commented on the drafting of the last paragraph of the Supervisory Statement and in particular that they don't find as appropriate to refer to 'internally set solvency limits' in the Statement as this concept has no foundation in Solvency II Regulation. Stakeholders argued also that the reference to solvency ratio 'coming under pressure or falling below the lower solvency limits' sets a supervisory expectation for action based on triggers which have no foundation in the Solvency II Regulation.

In order to accommodate this comment EIOPA has slightly redrafted the paragraph in question.