

# EXECUTIVE SUMMARY

RESULTS OF THE PEER REVIEW ON THE REGULAR  
SUPERVISORY REPORT (RSR)

2020



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# **EXECUTIVE SUMMARY**

RESULTS OF THE PEER REVIEW ON THE REGULAR  
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## EXECUTIVE SUMMARY

It is important that national competent authorities (NCAs) take a consistent approach to insurance undertakings' supervisory reporting. This helps to ensure that there is the same level of oversight across the European Economic Area (EEA), which in turn protects consumers and contributes to the stability of the financial system. Supervisory convergence in this regard will improve the efficiency and effectiveness of the supervision of these institutions, which is one of the key objectives of the European Insurance and Occupational Pensions Authority (EIOPA).

### BACKGROUND AND OBJECTIVES

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The Solvency II Directive introduced a number of supervisory reporting requirements, further specified in Delegated Regulation (EU) 2015/35. These include the requirement for undertakings to submit a regular supervisory report (RSR) to their NCA on a regular basis.

Under the proportionate approach set out in the Delegated Regulation, all NCAs must decide if each undertaking has to submit a complete RSR or a summary RSR that documents any material changes. NCAs have to inform undertakings about their decision at least 3 months before the reference date. In line with Article 312(1)(a) of the Delegated Regulation, as a minimum, a full RSR needs to be submitted every 3 years. However, a full RSR may be required by NCAs more frequently than once every 3 years. This could be based on national legislation, an NCA's internal policy or the rules of the supervisory review process (SRP) within a particular authority. If the full RSR is required annually or once every 2 years, NCAs can exempt certain undertakings from this yearly/biennial submission of the RSR. NCAs are expected to take a risk-based and proportionate approach when making decisions in this regard.

The peer review collected information on NCA practices from self-assessments provided by the NCAs, as well as from information and evidence gathered during fieldwork, which consisted of site visits and conference calls. Following the completion of the fieldwork, an analysis of the evidence was undertaken, and key findings and

proposed recommended actions were communicated to each NCA.

The main objectives were to assess how and to what extent the proportionate approach set out under the Delegated Regulation had been implemented and to determine if further convergence was needed on the frequency of submission of RSRs.

The reference period for the peer review was from the entry into force of Solvency II (SII) to the end of March 2019, and 31 NCAs participated. Given that the reference period for this peer review concluded before 31 January 2020, the United Kingdom's Prudential Regulation Authority also participated in full and its results are included in this report.

## PEER REVIEWS: AN ESSENTIAL OVERSIGHT TOOL

The main tasks of EIOPA are to enhance supervisory convergence, strengthen consumer protection and preserve financial stability.

Through its oversight function, underpinned by the Authority's founding regulation, EIOPA supports national supervisory authorities in the task of delivering high-quality, effective supervision, as well as overseeing the level playing field and appropriate application of supervisory measures within the EEA.

EIOPA has developed a range of tools to support oversight. In this context, peer reviews have proved essential as a means of increasing consistency and effectiveness in the outcome of supervisory actions. Peer reviews have also proved productive in strengthening dialogue within and between supervisory authorities and in facilitating sharing of best practices.

EIOPA conducts peer reviews based on an agreed methodology, with experts from national supervisory authorities acting as reviewers in coordination with EIOPA. In line with its mandate, the outcomes of peer reviews, including identified best practices, are made public. Where there may be a risk to the stability of the financial system, the Board of Supervisors may decide not to publish certain outcomes.

## MAIN FINDINGS

The peer review identified divergent practices among NCAs in a number of areas, in particular:

- the implementation of the option to request a more frequent submission of the RSR than once every 3 years (five groups of similar practices were identified);
- the definition of 'material changes' and NCAs' requirements with regard to their official communication (two groups of similar practices were identified);
- the communication of the decision on the frequency of submission of the RSR to market participants (practices varied from no communication at all with any of the market participants to communication with all undertakings on an individual basis).

These divergent practices have a negative impact on the level playing field for EEA undertakings. Therefore, EIOPA issued a number of recommended actions that NCAs should take to bring about greater convergence in their approaches and a more consistent implementation of the principle of proportionality.

Around one-third of the NCAs apply, to a certain extent, the principle of proportionality set out in the SII Directive

and the Delegated Regulation by performing risk-based supervision and setting the frequency of submission of the full and summary RSRs differently from the minimum defined by EU law.

### ➤ Overview of recommended actions

EIOPA issued 51 recommended actions, addressed to NCAs in 26 countries.

The recommended actions can be grouped into four categories. These are:

- 36 recommended actions in the area of proportionality;
- 8 recommended actions in the area of communication of material changes;
- 3 recommended actions in the area of the communication of the decision on the frequency of submission of the full/ summary RSR;
- 4 country-specific recommended actions.

A full list of the recommended actions and countries to which they have been issued can be found in Annex IV.

Topic	NCAs
<b>Area of recommended action: Proportionality</b>	
The NCA should take into account proportionality and apply a risk-based supervisory approach for defining the reporting frequency based on the outcome of the risk assessment.	Financial Supervision Commission (Bulgaria), Cyprus Insurance Companies Control (Cyprus), Estonia Financial Supervision and Resolution Authority (Estonia), Bank of Greece (Greece), Financial Supervision Authority (Finland), Hrvatska agencija za nadzor financijskih usluga (Croatia), Magyar Nemzeti Bank (Hungary), Financial Supervisory Authority (Iceland), Istituto per la Vigilanza sulle Assicurazioni (Italy), Bank of Lithuania (Lithuania), Financial and Capital Market Commission (Latvia), Malta Financial Services Authority (Malta), Finanstilsynet (Norway), Komisja Nadzoru Finansowego (Poland), Financial Supervisory Authority (Portugal), Financial Supervisory Authority (Romania), Finansinspektionen (Sweden), Insurance Supervision Agency (Slovenia), National Bank of Slovakia (Slovakia), The Prudential Regulation Authority (United Kingdom)
The NCA currently imposing annual submission of the full RSR should (propose to) amend its local legislation currently imposing annual submission of the full RSR accelerating the possibility for exemption of yearly submission.	Financial Supervision Commission (Bulgaria), Cyprus Insurance Companies Control (Cyprus), Bank of Greece (Greece), Magyar Nemzeti Bank (Hungary), Bank of Lithuania (Lithuania)
The NCA should introduce an internal policy which structures the process of defining the different frequency of submission of the full RSR.	Financial Supervision Commission (Bulgaria), Danish Financial Supervisory Authority (Denmark), Estonia Financial Supervision Authority (Estonia), Financial Supervision Authority (Finland), Hrvatska agencija za nadzor financijskih usluga (Croatia), Finanstilsynet (Norway), Financial Supervisory Authority (Portugal) Financial Supervisory Authority (Romania), Finansinspektionen (Sweden), Insurance Supervision Agency (Slovenia), National Bank of Slovakia (Slovakia)
<b>Area of recommended action: Communication of (no) material changes</b>	
The NCA should require the undertakings to submit a formal notification of "no material changes" in order to enhance effectiveness of the supervision. Based on the experience of the practice in other EEA countries NSAs explicit submission of a notification of "no material changes" is contributing to the efficient supervision of the requirements defined in the Article 312 (3) of the Delegated Regulation (EC) 2015/35.	Financial Supervision Commission (Bulgaria), Danish Financial Supervisory Authority (Denmark), Autorité de Contrôle Prudentiel et de Résolution (France), Financial and Capital Market Commission (Latvia), Financial Supervisory Authority (Romania), Insurance Supervision Agency (Slovenia), National Bank of Slovakia (Slovakia), The Prudential Regulation Authority (United Kingdom)
<b>Area of recommended action: Communication of the decision on the RSR frequency</b>	
The NCA should collect information on and communicate the frequency of submission of the RSR at solo and group level (link to EIOPA Guideline 23 SRP paragraph 1.58).	Bundesanstalt für Finanzdienstleistungsaufsicht (Germany), De Nederlandsche Bank (Netherlands), Dirección General de Seguros y Fondos de Pensiones - Ministerio de Asuntos Económicos y Transformación (Spain)
<b>Area of recommended action: Country specific recommended actions</b>	
The NCA should include the exemptions from annual submission of the full RSR based on specific to the undertaking events (merge/ acquisitions) in the "instructions" or any other official document (e.g. local legislation) which is known by undertakings.	Autorité de Contrôle Prudentiel et de Résolution (France)
The NCA should accelerate the decision on the undertakings' RSR frequency in order to notify the undertakings of the frequency of the RSR in line with Guideline 23 of the EIOPA Guidelines on SRP, i.e. no later than three months in advance of the undertakings' financial year end.	Malta Financial Services Authority (Malta)

Topic	NCAs
By introducing a different frequency of submission of the full RSR based on the outcome of the risk assesment the NCA should further work on enhancing the usage of the information of the RSR for supervisory purposes on account of further limiting the usage of country specific templates to collect the information needed.	Komisja Nadzoru Finansowego (Poland)
The risk-based approach implemented by the NCA should also be applied to captives to ensure that captives performing third party business are assessed based on their risk profile and not automatically considered low risk due to their legal nature as captives.	Commissariat aux Assurances (Luxembourg)

### › Proportionality

Most of the recommended actions in this area relate to achieving a more appropriate implementation of the principle of proportionality by requiring submission of the RSR more frequently than the minimum of every 3 years. These recommended actions involve either a change to the local legislation or the adoption of an internal policy to accelerate the process of introducing different frequencies of submission of the full RSR.

Some of these recommended actions relate to the use of a risk-based approach when deciding on the different frequencies of submission of the RSR, in particular when there is a lack of any IT/risk assessment system underpinning decision-making.

### › Communication of material changes

To enhance the effectiveness of supervision, recommended actions have been issued to all of the NCAs that do not require undertakings to submit a formal notification of 'no material changes' to ensure that in future they do so.

### › Communication of the decision

Recommended actions have been issued to NCAs that are group supervisors and that do not collect information on and do not communicate the frequency of submission of the RSR to ensure that in future they do so.

### › Country-specific recommended actions

Some recommended actions were issued to address specificities observed in individual countries' practices:

- › France has been issued with a recommended action to include exemptions from annual submission of the full RSR based on specific events in an official document.
- › Luxembourg has been issued with a recommended action to expand the risk-based approach implemented as well to captives to ensure that captives performing third party business are assessed based on their risk profile and not automatically considered low risk due to their legal nature as captives.
- › Malta has been issued with a recommended action to accelerate decisions on undertakings' RSR submission frequency to enable it to notify undertakings in line with Guideline 23 of the EIOPA guidelines on SRP.
- › Poland has been issued with a recommended action to increase its information in the RSR for supervisory purposes and limit its use of templates to collect additional country-specific qualitative information.

## FOLLOW-UP STEPS FOR EIOPA

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As a result of the findings of the peer review, EIOPA will take the following actions to further supervisory convergence in this area:

- introducing supervisory guidance by keeping the minimum requirement for submission of the full RSR as once every 3 years but requiring a mandatory assessment by NCAs and communication of the frequency of the RSR;
- including in its guidelines or supervisory handbook guidance on issuing exemptions from annual or biennial submission of the full RSR based on a list of events that are specific to the undertaking (e.g. mergers/acquisitions);
- developing further guidance in relation to the communication to the group supervisor and college in the context of Guideline 23, paragraph 1.58, of the EIOPA guidelines on SRP, by either updating this guideline or including this aspect in the supervisory handbook.

## SOUND PRACTICES

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In this peer review, no best practices were identified, as Article 312 of the Delegated Regulation provides a lot of room for flexibility in applying practices that are in line with European legislation. EIOPA did, however, identify some sound practices underpinned by the principles and key characteristics of high-quality and effective supervision. These practices are listed below.

Deciding on the reporting frequency of the full RSR, based on the outcome of the risk assessment, helps to achieve risk-based and proportionate supervision, with at least those undertakings that have a high risk profile and impact on the market submitting the RSR more frequently than once every 3 years and those undertakings with a low risk profile and impact on the market submitting the RSR less frequently than yearly.

Having an internal policy that outlines a structure for the process and sets out criteria for deciding on submission of the full RSR more frequently than once every 3 years helps to make supervision forward-looking, preventive and proactive.

Segmenting the market, allowing even distribution of the workload and an in-depth assessment of the full RSRs submitted, helps to ensure that supervision is challenging, sceptical and engaged; requesting that undertakings submit a statement of no material changes also helps to

meet the requirements of Article 312(3) of the Delegated Regulation.

Having a standardised RSR assessment process and tools helps NCAs to achieve conclusive supervision.

## IMPACT ON THE CREATION OF A COMMON SUPERVISORY CULTURE

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The creation of a common supervisory culture is one of EIOPA's key goals. The development of such a culture is vital to ensuring a high, effective and consistent level of supervision throughout the EEA, thus guaranteeing consumers the same level of protection regardless of where they live and promoting the stability of the financial system.

The analysis carried out for this peer review has revealed diverging legal and regulatory frameworks and supervisory practices in the area of the RSR. As a result of this, recommended actions have been issued and sound practices identified to inspire NCAs and to help them benefit from each other's experiences.

EIOPA believes that the implementation of these actions and practices by NCAs will bring about greater supervisory convergence. This peer review exercise aims to contribute to EIOPA's efforts to create among the NCAs a common understanding and application of the principles and key characteristics of high-quality and effective supervision when dealing with the RSR.

## CONCLUSIONS AND NEXT STEPS

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In this peer review on the RSR, EIOPA has analysed legal and regulatory frameworks and national supervisory practices across 31 NCAs in relation to decisions on the frequency of submission of the RSR and the communication of those decisions to undertakings. Differences in NCAs' approaches and practices in this area were found, and as a result, EIOPA issued a number of recommended actions with the aim of achieving greater supervisory convergence.

NCAs are expected to have implemented the recommended actions targeting supervisory shortcomings by 2022.

Furthermore, EIOPA has concluded, based on the issues observed in several countries in relation to proportionality in setting the frequency of submission of the RSR, that the SII legislation needs to be further clarified. Therefore, EIOPA will continue to monitor developments in this area and will implement the follow-up steps identified to introduce further supervisory guidance.

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