



SUPERVISORY CONVERGENCE PLAN FOR 2021

One of the main goals of the European Insurance and Occupational Pensions Authority (EIOPA) is to ensure a high, effective and consistent level of supervision across Europe, with the aim of guaranteeing a similar level of protection of policyholders and beneficiaries across jurisdictions, preventing supervisory arbitrage and guaranteeing a level playing field.

<https://www.eiopa.europa.eu>

SUPERVISORY CONVERGENCE

Convergence of supervisory practices should be built on a common interpretation of laws and regulations, and without prejudice to the application of supervisory judgment or the proportionality principle.

Convergence of supervisory practices is not only achieved or assessed by outputs, i.e. by the number, quality and impact of opinions or assessments. Convergence is also about working together. The process of developing common benchmarks for supervisory practices, performing reviews, engaging in challenging interactions and providing training to NCAs in itself leads to supervisory convergence.

Therefore, to achieve a high, effective and consistent level of supervision across Europe, EIOPA confirmed supervisory convergence as its main strategic goal for the years to come. At the beginning of the Covid-19 pandemic it became clear that ensuring supervisory convergence in extreme situations is even of greater relevance. Supervisory convergence work is a collective effort by all NCAs and EIOPA staff.

COMMON SUPERVISORY CULTURE

As with any strong structure, the framework of supervisory convergence needs to be built upon clear, well-known and commonly understood foundations.

EIOPA's booklet, "A common supervisory culture — Key characteristics of high quality and effective supervision", was the first step in building this framework. The booklet defines the following five key characteristics of high-quality and effective supervision: risk-based and proportionate, forward-looking, preventive and proactive, challenging, sceptical and engaged, comprehensive and conclusive.

A common supervisory culture cannot be built overnight. It is a long journey where, step by step, by working together, being focused and challenging each other along the way, supervisors will build a strong and fair supervisory culture that promotes consumer protection and enhances the stability of the financial system for the benefit of Europe's business, economy and citizens. As processes and procedures are easier to align than behaviour, convergence will occur at different paces.

The implementation of a common supervisory culture requires change and evolution. This was recognised in the last amendments to the ESAs Regulations, in particular the amendments to article 29 of EIOPA Regulation, where

tools such as establishing Union strategic supervisory priorities, establishing coordination groups to promote supervisory convergence and identify best practices or develop and maintain an up-to-date Union supervisory handbook have been identified. It is of utmost importance that the supervisory community has, at all levels, easy access to EIOPA tools as well as the ability and willingness to use them.

SUPERVISORY CONVERGENCE TOOLS

To further strengthen supervisory convergence, EIOPA use different building blocks, which will each have their own specific tools to support supervisory convergence.

- › Building common benchmarks for supervisory practices

This is achieved through the work on supervisory guidelines and recommendations; opinions; supervisory statements; the Supervisory Handbook; questions and answers; public best practices; reports; training/networking of supervisors; and study visits between supervisors.

- › Review of practices and comparison of competent authorities

Thematic reviews aiming the assessment of market practices or the gathering of quantitative and qualitative data on consumer outcomes and the drivers of these outcomes.

Peer reviews aiming the assessment of supervisory practices of national supervisory authorities as well as the adequacy of supervisory resources and the degree of independence of those competent authorities.

- › EIOPA's own independent assessment

EIOPA's oversight work focuses on monitoring and challenging supervisory practices and supporting NCAs. The tools used include bilateral visits; cooperation platforms on cross-border business; dialogue with group supervisors; participation in colleges; breach of European Union law; and a mediation role.

PRIORITY AREAS — CRITERIA CONSIDERED

The decision on the priority areas of EIOPA's convergence work follows a risk-based approach. In this sense a risk-based approach implies identifying the depth and scale of issues and focusing priorities and resources where they matter most.

The priorities that are taken into account when developing the supervisory convergence plan are grouped in the following 3 categories:

- Areas with relevant impact on policyholders and financial stability. The impact is not only about the scale or number of policyholders affected if risks materialise or the scale of the individual impact for policyholders, but also where this could have a potential effect on market reputation and on business models.
- Areas that can affect fairness, the level playing field or the proper functioning of the internal market through the existence of possible supervisory arbitrage (in particular referring to cross-border business within the EU and with countries outside the EU, regarding both equivalent and non-equivalent countries).
- Key areas of supervision where practices substantially differ.

Furthermore, a high level priority for the plan of 2021 is to complete as much as possible the priorities stemming from the previous plans, keeping at the same time some flexibility in order to continue monitoring and mitigating the impact from the Covid-19 pandemic, which triggered some unexpected work in 2020.

SUPERVISORY CONVERGENCE PLAN

This plan does not intend to be a detailed list of all EIOPA activities leading to supervisory convergence. A number of already existence activities promote regularly supervisory convergence such as the work under the SupTech Strategy or the use of data and dissemination of data analysis or other activities in the context of EIOPA Oversight work. EIOPA works continuously on delivering and improving them but they are not part of this plan. This plan provides, starting with the priorities identified in 2020, an update of EIOPA priorities for 2021 regarding supervisory convergence practices focusing on the projects leading to concrete deliverables not in place yet.

In 2020, the work on supervisory convergence revealed a good degree of progress, taking also into consideration the significant efforts needed to review the Solvency II framework, where the lessons from supervisory convergence work were key. Despite the progress achieved, additional work is needed to finalise some current projects and work within EIOPA continues. The priorities for 2021 are a mix between the areas from 2020, where the need to further development was identified, and new areas of priorities identified, namely: proportionality principle, supervisory convergence in the pension sector, the identification, management and supervision of ESG (environmental, social and governance) risks in the insurance and pensions sector and the treatment of third country reinsurance.

EIOPA Supervisory Convergence Plan will continue to address the following priorities.

Figure 1. Priorities for the three building blocks of supervisory convergence

1. Practical implementation of the key characteristics of the common supervisory culture and further development of supervisory tools;
2. Risks to the internal market and to the level playing field which may lead to supervisory arbitrage;
3. Supervision of emerging risks.

1. PRACTICAL IMPLEMENTATION OF THE COMMON SUPERVISORY CULTURE AND THE FURTHER DEVELOPMENT OF SUPERVISORY TOOLS

a) Risk assessment framework and application of proportionality

- Following up on the advice on 2020 review of Solvency II, EIOPA intends to continue working on this topic to prepare the support of the future proportionality framework by further developing regulatory work in the form of future EIOPA's Guidelines that will include operational guidance for the application of the new framework on Proportionality;

- › EIOPA will continue to promote a common understanding of the principle of proportionality and a culture of implementation and transparency of proportionality by national supervisory authorities and assess the need for further supervisory convergence tools to complement the regulatory work.
- › EIOPA will also develop preparatory work for the future development of a regular Report on implementation of Proportionality in Solvency II.
- › Follow up on the peer review on the supervisory practices for the application of the proportionality principle in governance requirements regarding key functions.¹

b) Common Benchmarks for the supervision of Internal Models

- › IMOGAPIs (Internal Model On-Going Appropriateness Indicators): further development of the prototype dashboard, in order to address potential drawbacks and weaknesses allowing it to be used by NCAs for supervision;
- › Reporting requirements for internal models: contribution to the amendment to the ITS on reporting to ensure convergence in the interpretation of the new requirements.

c) Supervisory assessment of conduct risks

- › Final follow-up of the thematic review on travel insurance and the warning to the industry on high commissions including analysis of the outliers and discussion of potential supervisory measures, also in light of the risks emerged because of the COVID-19 pandemic;
- › Continue working on developing a common conduct risk assessment, including by working on a chapter of the Supervisory Handbook;
- › Address key risks stemming out of some product and contract structures and complexity also in light of the COVID-19 pandemic (product complexity, high fees, lack of clarity in contracts);
- › Finalising the Supervisory Handbook Chapter on the supervision of the Packaged Retail and Insurance-based Investment Products (PRIIPs) Key information documents (KIDs).

d) Supervisory approach to environmental, social and governance (ESG) risks (new)

- › Building on EIOPA's analysis carried-out during 2018-2020², EIOPA will be taking step-by-step measures for integrating the assessment and management of ESG risks into prudential and conduct supervision, namely:
 - by preparing the ground for market monitoring of sustainability risks from a conduct perspective ;
 - through prudential oversight of climate-change related transition and physical risks on insurers' balance sheets; and
 - oversight of insurers' ESG governance and risk management framework.
- › Concerning internal models: following-up on initial analyses performed in the comparative studies in 2020, where relevant, further analyses will be conducted;
- › Concerning pensions, the Prudent Person Rule chapter of the IORPs' Supervisory Handbook, expected to be finalised in the beginning of 2021, will include some good practices on the supervision of IORPs incorporating ESG factors in their investment policy.

e) Group supervision

After consideration of supervisory practices and the policy advice given to improve the legislative framework under Solvency II 2020 Review, EIOPA will continue developing supervisory convergence tools with regard to the areas already identified in the plan for 2020, namely:

- › Good practices on the treatment of own funds of the related undertakings that fall under the category of other financial sectors and for which sectorial rules apply, and interconnection with the Financial Conglomerates Directive and Regulations;
- › Good practices on the supervision of intra-group transactions (IGT) and risk concentrations;
- › Good supervisory practices on the application of combination of methods in the calculation of the Group Solvency.

¹ For additional information, see [EIOPA's Peer review work plan 2020-2022](#).

² As part of its work on sustainable finance, EIOPA has been developing advice, draft regulatory standards and opinions as well tools for identifying, and assessing, disclosing and monitoring environmental, social and governance (ESG, or sustainability) risks, with a focus on climate change. For more info, see https://www.eiopa.europa.eu/browse/sustainable-finance_en

Furthermore, other areas derived from Solvency II 2020 review will be also considered:

- › Further improve the reporting requirements for groups in the 2021 amendment to the ITS on Reporting to ensure convergence in the interpretation of the requirements.

f) Supervisory Technology (SupTech)

Following-up the publication of EIOPA's SupTech Strategy in February 2020, EIOPA developed a program which includes some projects impacting supervisory convergence:

- › Monitor the appropriateness of the code sharing platform to be presented in early 2021 for the on-going exchange of knowledge and experience on SupTech tools implemented by NCAs to promote a culture of innovation and initiative between supervisors. By the end of 2021 EIOPA will assess whether the use of a more sophisticated tool for the information sharing would be needed;
- › Launch a pilot using supervisory technology to assess conduct risk: In 2020 EIOPA explored options to use technology to collect and to analyse KID's data and also further enhanced its data work to assess conduct risks. In 2021 EIOPA will carry out at least one pilot on how to use supervisory technology to identify and possibly predict conduct risks.

g) Training on insurance supervision under Solvency II

EIOPA signed a contract in 2020 with European Commission, via the Directorate General for Structural Reform Support (DG REFORM), in order to deliver a training on Insurance supervision under Solvency II to 17 NCAs.

EIOPA started to provide the first training in October 2020 in an on-line mode and will keep delivering it in the course of 2021.

2. RISK TO THE INTERNAL MARKET AND THE LEVEL PLAYING FIELD WHICH MAY LEAD TO SUPERVISORY ARBITRAGE

a) Calculation of Technical Provisions

Following up on the advice on 2020 review of Solvency II, EIOPA intends to continue to work on EIOPA supervisory convergence tools to promote supervisory convergence in Technical Provisions' Best Estimate Calculation:

- › Continue working on (new and amended) Guidelines on Best Estimate Valuation and Guidelines on Contract boundaries;
- › Revision of the technical provisions chapter of the supervisory handbook;
- › Further analysis of situations and assumptions leading to negative Technical Provisions and assessment of Expected Profits Included in Future Premiums (EPIFP).

b) Assessment of Internal Model outcomes

- › Perform comparative studies on the outcomes of Internal Models regarding underwriting risks for main non-life lines of business (NLCS) and market and credit risk (MCRCS), with an analysis of potential model drifts over time.
- › Continue working on the study on modelling of diversification benefits in Internal Models (results are expected in 2022).

c) Authorisations, fitness and propriety

In the context of the implementation of new Article 31a of the ESAs regulation, EIOPA will continue working with the other ESAs to set up a cross sectoral system for information exchanges regarding assessments of AMSB members, Qualifying shareholders and other Key Functions Holders.

d) Pension issues (new)

After the Completion of the Prudent Person Rule (PPR) Chapter of the IORPs' Supervisory handbook on PPR expected in 2021, EIOPA will initiate work to establish and address supervisory concerns arising from the recent market development of multi-employer IORP providers (i.e. IORPs established by service providers). The IORP II Directive provides minimum prudential requirements

focusing largely on the traditional image of non-commercial purpose IORPs set up by a single sponsor or multiple sponsors of the same sector³. Whilst multi-employer IORP providers have an important role to play to foster market consolidation and provide efficient, low-cost solutions in Member States seeking to develop occupational pensions, they also bring new supervisory questions in respect of the governance (e.g. conflicts of interest, sponsor involvement) and risk management (e.g. operational DC liabilities, service continuity in case of business insolvency). This work will include fieldwork to better understand providers' different business models and NCAs' supervisory practices in respect of these IORPs and will take into consideration the proportionality principle.

e) **Third Country reinsurance in the EU (new)**

EIOPA has identified inconsistencies in the way National Competent Authorities treat reinsurance undertakings with the head office located in third countries. EIOPA will further analyse the issue, identify potential risks to the internal market and, if any, develop adequate tools. Considering that this is an area not fully regulated by the Solvency II Directive, legislative amendments may also be identified.

3. SUPERVISION OF EMERGING RISKS

a) **IT security and governance-related risks, including cyber risk**

- Work on a system for the exchange between Competent Authorities (NCAs and ESAs) of information regarding cybersecurity and cyber-attacks;
- Contribute to the establishment of a Digital Operational Resilience Framework, following the publication of EIOPA Guidelines on ICT security and Governance and COM proposals on this area, with special focus to the cyber incident reporting and cyber resilience testing.

b) **Digital transformation**

- Develop a set of principles of digital responsibility. The principles will address the use of new business models, technologies and data sources in insurance

from the perspective of fairness and taking into account ethical considerations.

- Participate and promote relevant discussions in the area on the insurance and pension sector in the European Forum of Innovation Facilitators (EFIF). The EFIF provides a platform for supervisors to meet regularly to share experiences from engagement with firms through innovation facilitators to share technological expertise and to reach common views on the regulatory treatment of innovative products, services and business models, overall boosting bilateral and multilateral coordination. EIOPA will continue to chair the EFIF during the first half of 2021.

c) **Supervision of Run-off undertaking**

- Development of a supervisory convergence tool addressing some specificities of run-off undertakings⁴;
- Development of a chapter for the supervisory handbook gathering good practices on the supervision of run-off portfolios.

d) **Cyber underwriting**

- EIOPA to ensure the implementation in the next years of the objectives and goals set out in the EIOPA Cyber Underwriting Strategy, published in February 2020. Further improve the reporting requirements for cyber risks in the 2021 amendment to ITS on Reporting and consider the impact from DORA.

e) **Outsourcing and Third Party Providers**

- Peer review on Outsourcing: the area of outsourcing by insurance or reinsurance undertakings can potentially be important and significant in any Member State. Conducting a thorough analysis of NCAs' approaches to provisions stipulated in Solvency II framework, exchanging information and identifying any gaps will be beneficial to further strengthen consistency and effectiveness in supervisory outcomes. The evaluation could also be useful to address potential concerns about shell (mailbox) companies and service providers located in third countries, also with respect to post-Brexit issues. The outsourcing of functions of underwriting or claims handling to MGAs in case of cross-border business is one particular use of outsourcing which will deserve attention of the peer review as supervisory convergence in this area is important.

³ Recital 32 explains that IORPs should not be treated as purely financial service providers.

⁴ E.g. authorisation process, business model analysis, assessment of assumptions for calculating technical provisions, change in the investment/reinsurance strategy, role of private equity entities, etc.

OVERSIGHT PRIORITIES

EIOPA's own Oversight work continues to focus on bilateral engagements with NCAs to support supervisory convergence and assist on cross-border issues. Apart from EIOPA's role in the colleges, a number of further tools have been developed over the past years to support these activities. The priority for 2021 is to further develop these tools and continue to increase our effective engagements with the NCAs through:

- Continue liaising with NCAs and carrying out country visits, in the area of conduct and prudential supervision as well as in the specific area of supervision of internal models;
- Establishing and coordinating cross-border cooperation platforms when supervisory concerns of a conduct or prudential nature arise around the provision of insurance services in a Member state via freedom of services or freedom of establishment;

- Participating in joint-onsite inspections under the umbrella of the colleges of supervisors or via the cross-border cooperation platform, both in the area of conduct and prudential supervision;
- Providing assistance via European Commission (DG REFORM) projects upon requests;
- A closer cooperation with the Single Supervisory Mechanism in the area of conglomerates oversight.

Furthermore, in 2021 EIOPA will define for the first time up to two Union wide strategic supervisory priorities in the area of conduct and prudential supervision, for both the pensions and insurance sector.

EIOPA will stand ready to provide assistance to an NCA in the area of internal model applications upon request, as introduced in the recent amendment of the EIOPA Regulation, and will continue developing this tool.

LEARN MORE



Visit the dedicated webpage:

https://www.eiopa.europa.eu/browse/supervisory-convergence_en

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Print	ISBN 978-92-9473-287-3	doi:10.2854/666560	EI-02-21-124-EN-C
PDF	ISBN 978-92-9473-282-8	doi:10.2854/910196	EI-02-21-124-EN-N